



Item
Meeting2016 June 27

COUNCIL REPORT

TO: CITY MANAGER **DATE:** 2016 June 22

FROM: DIRECTOR PLANNING AND BUILDING **FILE:** 49500 20
Reference: Rez #14-18

**SUBJECT: REZONING REFERENCE #14-18
 PROPOSED SINGLE FAMILY RESIDENCE
 7007 JUBILEE AVENUE
 RESPONSE TO PUBLIC HEARING ISSUES**

PURPOSE: To respond to issues raised at the Public Hearing for Rezoning Reference #14-18.

RECOMMENDATION:

1. **THAT** a copy of this report be sent to the applicant and those who spoke at, or submitted correspondence to the Public Hearing for Rezoning Reference #14-18.

REPORT**1.0 BACKGROUND**

On 2016 January 26, a Public Hearing was held for Rezoning Reference #14-18. The subject rezoning application proposes a single family dwelling with a gross floor area beyond that permitted under the prevailing R5 Residential District zoning. The application is in accordance with established guidelines to be considered through rezoning process. The subject site is located within the Sussex-Nelson neighbourhood at 7007 Jubilee Avenue (see *attached* Sketch #1).

A total of nine written submissions were received at the Public Hearing, comprised of: one petition which represented 88 individuals, one petition representing 15 individuals, and seven emails. At the Public Hearing, six individuals made verbal submissions regarding the rezoning application.

The 15 written and verbal submissions raised issues generally related to: consistency with the Official Community Plan (OCP) and City policy regarding R "a" rezonings; public consultation; building form and density; potential environmental impacts; and other potential neighbourhood impacts. At the Public Hearing, Council requested that a staff report be submitted to provide further information on the issues raised. The following report addresses Council's request.

2.0 ISSUES RAISED**2.1 City Policy**

Questions were raised regarding the proposal's consistency with the Official Community Plan (OCP) and other City policies; concerns were raised regarding the City's policy for R5a District

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rezonings; and concerns were raised regarding the potential for other similar rezoning applications in the area.

Response:

Consistency with OCP – The OCP designates the subject site, located in an R5 District neighbourhood in the Sussex-Nelson area, for Single and Two Family Urban use. Both the R5 District and the R5a District are available for rezoning of land for Single and Two Family Urban use, consistent with the OCP designation.

Consistency with City policies – In 1987, Council adopted a series of amendments to the text of the Burnaby Zoning Bylaw primarily directed towards controlling the bulk of single and two family dwellings in the Residential Districts. The changes included revised height regulations and the introduction of a maximum Floor Area Ratio (FAR), together with a specified maximum Gross Floor Area (GFA) in the R1, R2, R3, R4, R5, and R9 Districts, where no maximum FAR or GFA had previously applied.

Also in 1987, Council adopted bylaws which established the R “a” zoning category in the R1, R2, R3, R4, R5, and R9 Districts in order to make it possible for owners of larger lots, subject to rezoning to the relevant R “a” District, to obtain approval for dwellings exceeding the maximum GFA of the base zoning district, but within the maximum applicable FAR. The minimum lot area requirement for eligibility for an R “a” rezoning is 150% of the minimum lot area required under the base zoning district, with development density, not to exceed 0.6 FAR, dependent on the width of the property. The utilization of both the minimum lot area and width requirement controls the scale of residential development, provides for separation and open space around such developments, and allows for larger homes on corresponding larger lots. In 1989, Council adopted further design guidelines for the development of larger single and two family lots under the R “a” District in order to ensure compatibility with the surrounding neighbourhood.

Under the prevailing R5 District zoning of the subject property, each lot with a single family dwelling must have an area of not less than 557.40 m² (6,000 ft²) and a width of not less than 15 m (49.2 ft.). Under the R5a District, each lot must have an area of not less than 840 m² (9,041.9 ft²) and a width of not less than 21 m (68.9 ft.). The subject property has an area of 1,154.69 m² (12,429 ft²) and a frontage width on Jubilee Avenue of 22.86 m (75 ft.), and as such meets the minimum area and width requirements for consideration of rezoning to the R5a District.

With regard to development density, the R5 District permits a maximum GFA of the lesser of 0.60 FAR or 370 m² (3,982.8 ft²). The proposed R5a District would permit a single-family dwelling on the subject site with a maximum gross floor area ratio of 0.60 FAR or approximately 692.94 m² (7,458.74 ft²). The applicant proposes to rezone the subject property to the R5a District to allow for the construction of a new single-family dwelling with a detached three-car garage which has a proposed total GFA of approximately 690.27 m² (7,430 ft²). The applicant’s proposal was reviewed with respect to the Council-adopted design guidelines for R “a” rezonings and meets and exceeds these guidelines with respect to building form.

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Finally, a question was raised regarding whether two lots could be combined, which together would have sufficient lot area and width to meet minimum R "a" requirements. It is noted that the Approving Officer is obligated to accept subdivision applications that meet applicable minimum zoning requirements, therefore there is the potential through subdivision/consolidation of lands to create larger lots that would meet R "a" requirements for consideration of rezoning.

R "a" District Properties in Burnaby – A question was raised whether the rezoning creates a precedent for other R "a" District rezonings. Staff note that there are no R5a or other R "a" District properties in the immediate vicinity of the subject property. There is an R2a District property located approximately 0.6 km (1 mile) to the south at 4699 Neville Street. Since 1987, there have been a total of 40 R "a" District properties rezoned throughout Burnaby. It is noted that 35% of these R "a" properties are located in areas designated in the OCP for Single and Two Family Urban use, 22.5% are located in the subject southwest quadrant of Burnaby, and 55% have a lot area less than that of the subject property.

In South Burnaby, it is noted that there are two R5a District zoned residential properties along Marine Drive in the southeast area of Burnaby. In addition, there is one residential property north of the Metrotown Town Centre Area Plan, at 5538 Chaffey Avenue, zoned Comprehensive Development (CD) based on the RM1 and R5a District guidelines.

The eligibility of a property to be considered for rezoning to the R "a" District is limited by the property's lot area and width, as noted in the regulations above. For example, within the south Burnaby area bounded by Frederick Avenue, Imperial Street, Nelson Avenue, and Victory Street, only ten (6%) of the 166 R5 zoned properties meet the lot area and width requirements of the R5a District. Furthermore, of those 10 properties, six properties are occupied by single or two family dwellings built since 1990, and are not likely to be advanced for redevelopment at this stage of the building lifecycle. In summary, the rezoning itself does not create a precedent for further R'a' applications, as the potential for consideration of rezoning is primarily tied to the lot size.

2.2 Public Consultation

Questions were raised regarding the lack of detailed plans available to the public. Further questions were raised regarding the proposed number of kitchens and bathrooms, and the applicant's consultation with the neighbourhood prior to Public Hearing.

Response:

Detailed plans – Public Hearing plans for all rezoning applications are available for viewing prior to Public Hearing during business hours at the front counter of the Planning Department and in Council chambers at the Public Hearing. The plans for R "a" rezonings generally include a site plan, landscape plan, elevations, and floor plans. The plans available for viewing in the Planning Department for the subject rezoning application included all of the above, with the floor plans showing the kitchens, bathrooms, bedrooms, and other living areas of both the proposed secondary suite and the main dwelling. It is noted that the proposed development plan

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for the subject property shows one kitchen and one bathroom in the secondary suite and one kitchen and five bathrooms in the main dwelling.

It is also noted that the Public Hearing reports to Council, available to the public on the City website, provide additional details on all rezoning applications. The public is advised of the availability of this information through the Public Hearing report in the agenda posted on the City's website, the posting of the Public Hearing sign on the property, the notification of adjacent property owners and occupants by mail, and the advertising of the bylaw and the Public Hearing date in the local newspaper.

Neighbourhood consultation – During the design development stage, applicants for R “a” rezonings are advised to consult with adjacent property owners to review designs and address any immediate concerns related to the building form and siting. For the subject rezoning, the applicant surveyed 17 property owners in the immediate area – three property owners directly to the west across the lane, eight property owners directly north and south on the west side of Jubilee Avenue, and six property owners directly across the street on the east side of Jubilee Avenue.

Between 2015 June to 2015 August, the applicant was able to obtain the signatures of 12 property owners consulted who had seen the development plans, and had no concerns. In addition six signatures from nearby property owners outside of the immediate area were obtained. Of the five property owners in the immediate area who did not sign the petition, staff were advised by the applicant that one property owner had no objections to the rezoning proposal but did not wish to sign the petition. According to the applicant, the remaining four property owners were difficult to contact; therefore the applicant sent registered letters regarding the proposal to the property owners. Three of the letters were successfully delivered, with one property owner subsequently contacting the applicant by phone to advise that they had no objections to the proposed rezoning; the other two property owners did not contact the applicant. One letter was not picked up by the property owner and was returned to the sender. It is noted that issues raised at the Public Hearing for the subject rezoning application were primarily brought forward by residents not within the immediate neighbourhood area of the consultation.

2.3 Building Form and Density

Concerns were raised regarding the appropriateness of the building form and density proposed for the development site. Specifically, concerns were raised regarding the size of the proposed house, and the appropriateness of a large house in the neighbourhood and the loss of neighbourhood character.

Response:

Size of dwelling – As noted, the R5a District permits an FAR of up to 0.6. In this circumstance, the proposed dwelling and detached garage have a total Gross Floor Area (GFA) of 690.27 m² (7,430 ft²), which is within the maximum permitted GFA of 692.94 m² (7,458.74 ft²) for the R5a District. About one-third of the GFA is below grade in a cellar and about two-thirds of the GFA,

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is visible above grade. The proposed development's Above Grade Floor Area (AGFA) of 443.33 m² (4,772 ft²) is also within the maximum permitted AGFA of 461.88 m² (4,971.6 ft²) for the R5a District.

The proposal also meets and exceeds Council adopted guidelines for R "a" developments and applicable R5 District requirements, as indicated below:

- the proposed height of the dwelling is within the maximum permitted 9 m (29.5 ft.) height of the R5 District, and, as per the R "a" development guidelines, its two-storey appearance is generally in line with the scale and character of neighbouring properties, including those immediately north and south;
- the front yard setback of 8.4 m (27.56 ft.) exceeds both the 6 m (19.7 ft.) required in the R5 District and the 8.06 m (26.45 ft.) front yard average setback required for the subject property and, as per the R "a" development guidelines, is consistent with the prevailing front yard setbacks of the area;
- the rear yard setback of 25.83 m (84.75 ft.) is substantially larger than the 17.68 m (58 ft.) required as per the R "a" development guidelines, noting that 7.5 m (24.6 ft.) is the required R5 District rear yard setback;
- the building depth of 15.89 m (52.12 ft.) is well within the maximum 18.3 m (60 ft.) building depth for the R5 District and the R "a" development guidelines;
- the 3.66 m (12 ft.) wide side yard setbacks exceed the recommended width of 3 m (9.8 ft.) – double the R5 District side yard setback requirement;
- the proposed dwelling has varied roof elements, building articulation, a covered porch entry, and balconies to accent the front elevation;
- there are no privacy concerns arising with respect to windows or active deck areas as they relate to neighbouring properties; and,
- the proposed development includes appropriate new soft landscaping and provides a total of eight trees which are required replacement trees for existing trees that are not suitable for retention.

Appropriateness of an R "a" house in the neighbourhood and the loss of neighbourhood character – While there are no other R "a" District developments in the neighbourhood, a high proportion (69%) of the R5 District properties fronting the subject block are developed with two-storey single and two family dwellings, with all but two of these dwellings constructed after 1980. In addition, the properties to the immediate north and south, as well as those to the northeast across Jubilee Avenue, are occupied by newer single and two family two-storey dwellings, some of which also have cellars. As such, the proposed dwelling, in addition to meeting the R "a" criteria and design guidelines, is, given the size of the lot, in line with the scale and character of neighbouring properties.

It was also suggested at the Public Hearing that laneway housing and other smaller housing forms would be a better approach than having the bulk of the permitted density located in one main dwelling. It is noted that the OCP's Residential Policy Framework supported the review of secondary suites in single family dwellings, and that secondary suites are now permitted in Burnaby. The policy report adopted by Council for secondary suites determined that secondary suites should be accessory housing units located within single family dwellings, and that

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additional accessory housing opportunities, such as laneway housing and other smaller housing forms, in single family residential neighbourhoods would be considered in the context of a forthcoming update to the OCP through the associated public consultation process.

2.4 Potential environmental impacts

Concerns were raised regarding the potential environmental impacts of the development. Specifically, concerns were raised regarding the loss of trees for the development of large houses and the replacement of older and larger trees with smaller replacement trees; the qualifications of the City's Landscape Development Technician, the City's inspection of trees; and the fine for cutting trees without a permit. In addition, concerns were raised regarding the amount of impervious surfaces in the back yard of the proposed development site.

Response:

Loss of trees – The Burnaby Tree Bylaw was established in 1996, and updated in 2014, to protect significant trees within the City and to ensure appropriate replacement trees are planted to enhance the urban forest. Under the Tree Bylaw, the cutting of any protected tree – any tree on a property subject to a development application with a diameter greater than 20 cm (8 inches) – requires a Tree Cutting Permit. If the City determines that replacement trees are required, a bond will be required for the replacement trees, to be paid prior to receiving the Tree Cutting Permit. While the objective of the Tree Bylaw is to maintain existing healthy protected trees where possible, certain criteria permit the removal of trees in various supportable circumstances such as: when retention of a tree would prevent development of the lot or cause undue hardship; a tree is unhealthy or hazardous; and there is not enough space to accommodate a mature tree form. With respect to the first example, it is noted that under the Community Charter, the Tree Bylaw through tree retention requirements cannot prevent the development of a property in accordance with the density allowed under the Zoning Bylaw.

In regards to questions regarding the replacement of older and larger trees with smaller replacement trees, while replacement trees are generally not as large as mature trees that are removed, the replacement of mature trees with large trees is not feasible due to the logistics of uprooting and transporting large trees. It is also recognized that replacement trees in appropriate locations, which must meet specific requirements related to criteria such as size, health, and maintenance, will grow into mature trees in the future.

With respect to the subject property, the Landscape Development Technician reviewed the condition of the trees at the subject property and found that none of the eight trees on the site, which are located in the rear of the property, are suitable for retention for a variety of reasons including: trees with codominant stems (multiple trunks), a significant structural defect that increases the likelihood of tree failure, in the vicinity of the proposed garage; a tree with compromised health due to its location adjacent a chain link fence; a tree located too close to any proposed new structure to be retained successfully; and a tree clump that has been heavily topped. If a Demolition Permit is applied for, a Tree Cutting Permit would be issued for the removal of the trees and the planting of replacement trees would be required. The landscape plan

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for the proposed development includes the planting of eight 2.5 m (8.2 ft.) high replacement trees (two in the front yard and six in the back yard), a 1.22 m (4 ft.) high cedar hedge along the front property line, and extensive planting of grass.

The City's Landscape Development Technician is a registered landscape architect, certified arborist, member of the BC Society of Landscape Architecture, and member of the International Society of Arboriculture. This staff person has over 18 years of experience with the City.

In regards to fines under the Tree Bylaw, it is noted that the fine for cutting or removing a protected tree without a valid Tree Cutting Permit is \$500. Furthermore, the penalty specified for violation of the provisions of the Tree Bylaw is a minimum of \$2,000 and a maximum of \$10,000 for each violation, with the specific enforcement approach dependent on the severity of the offence. This development would be required to meet all requirements of the applicable Burnaby Tree Bylaw.

Impervious surfaces in the back yard – With the exception of the proposed three car garage, driveway area, and sidewalk area/sunken patio, the subject property's back yard is proposed to be primarily covered with permeable surfaces, specifically grass and six replacement trees; the total amount of impervious surfaces in the back yard is proposed to be approximately 19%. It is also noted that the total proposed coverage of the subject property by impervious surfaces (including the dwelling, garage, porch, deck, sunken patio, driveway, and sidewalks) is approximately 38%, or 438.78 m² (4,723 ft²). Section 6.24 of the Zoning Bylaw allows for 70%, or 808.28 m² (8,700.3 ft²), of the total site area to be covered by impervious surfaces. The proposal meets and significantly exceeds the standard set by the Zoning Bylaw.

2.5 Potential Neighbourhood Impacts

Concerns were raised regarding potential neighbourhood impacts from the proposed development, specifically with respect to a lack of parking and other potential impacts, affordability, and unauthorized use of the property.

Response:

Parking – With respect to parking, the Zoning Bylaw requires a single family dwelling with a secondary suite to provide one independently accessible parking space for each dwelling unit. The subject proposal would therefore require two off-street parking spaces. The proposed development exceeds this requirement, with three off-street parking spaces provided in the proposed three-car garage located off the lane. Although on-street parking does not count toward parking requirements, on-street parking is available on both sides of Jubilee Avenue.

Other Impacts – It is noted that a number of various concerns were raised on use, family size, traffic and noise. The Zoning Bylaw permits single and two family dwellings in the R5 District, permits secondary suites as an accessory use in a single family dwelling in the R5 and R5a Districts, and does not restrict the size of a family living in a dwelling. It is also noted that the proposed use of the property, the potential traffic, and the potential number of residents on the

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property would be consistent with the development of the site for its designated single dwelling use. With respect to noise, it is noted that construction noise originating from the proposed development site must abide by the permitted hours of construction and maximum noise levels of the Burnaby Noise and Sound Abatement Bylaw. The current and future use of the property must also comply with the requirements of the Burnaby Noise and Sound Abatement Bylaw.

Unauthorized use of the property – A variety of concerns were raised on the potential for unauthorized use of the proposed dwelling. Staff note that complaints regarding unauthorized use of property can be reported to the City and are subject to City enforcement measures.

3.0 CONCLUSION

The development proposal for the subject rezoning application (Rezoning Reference #14-18) is for a single family dwelling with a GFA beyond that permitted under prevailing zoning. The subject property meets the minimum lot area for consideration of the proposed R5a District rezoning and meets or exceeds the guidelines for assessing single family dwellings in the R5a District.

This report provides information related to the key comments and concerns raised at the Public Hearing, including those related to consistency with the OCP and City policy regarding R “a” rezonings, public consultation, building form and density, and potential environmental impacts and neighbourhood impacts. As outlined in this report, the development meets the single and two-family designation of the OCP and Council’s adopted guidelines for consideration of R5a rezonings.

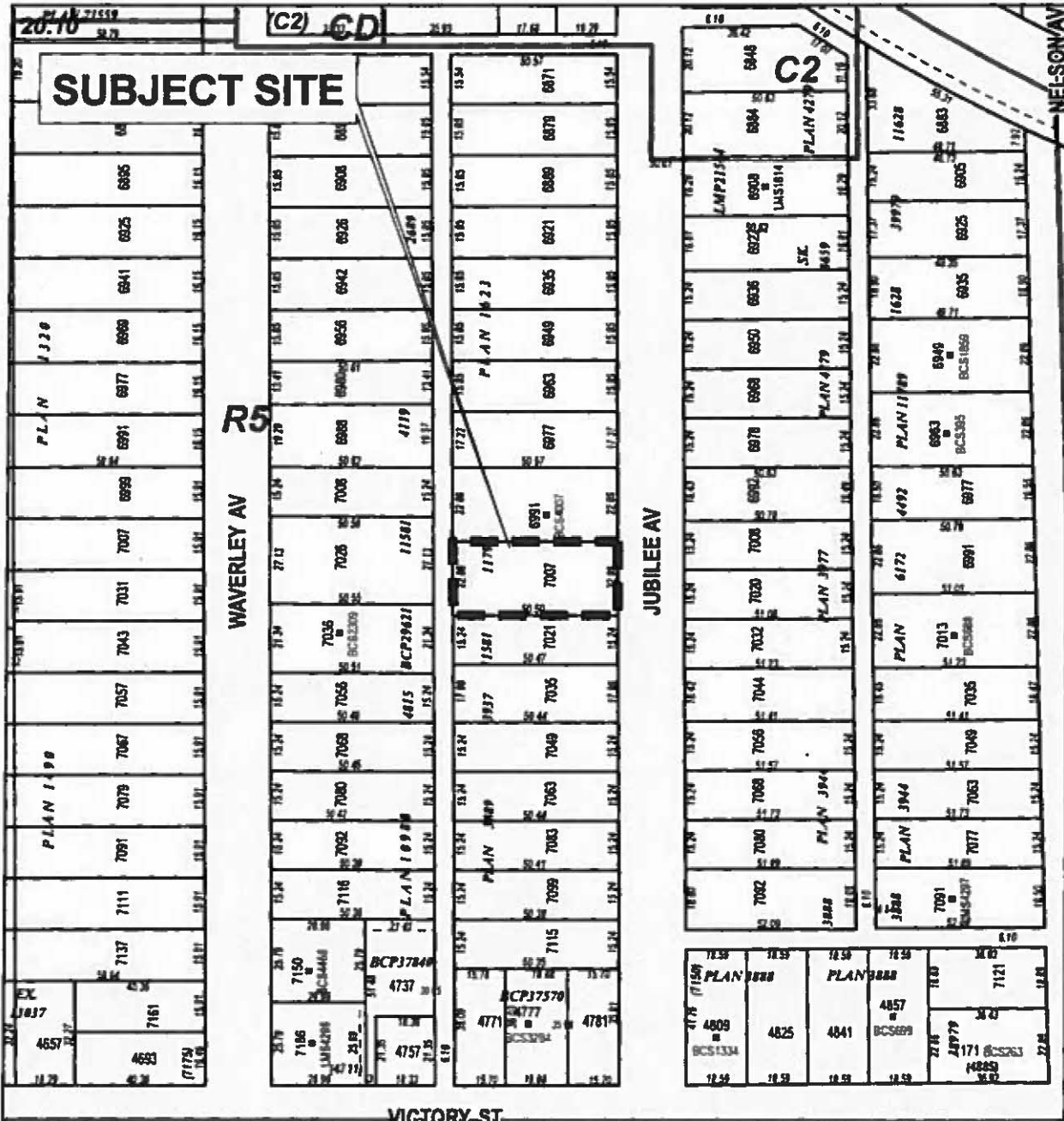
It is recommended that a copy of this report be sent to the applicant and those who spoke at, or submitted correspondence to the Public Hearing for Rezoning Reference #14-18.


 Lou Pelletier, Director
 PLANNING AND BUILDING

LS:spf
Attachment

cc: Director Engineering
 Chief Building Inspector
 City Clerk

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PLANNING & BUILDING DEPARTMENT




DATE: NOV 05 2015

SCALE: 1:2,000

DRAWN BY: AY

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 Subject Site

Sketch #1