

2003 March 18

A Public Hearing (Zoning) was held in the Council Chamber, City Hall, 4949 Canada Way, Burnaby, B.C. on Tuesday, 2003 March 18 at 7:30 p.m.

PRESENT: Mayor D. R. Corrigan (In the Chair)  
Councillor S. Dhaliwal  
Councillor D.G. Evans  
Councillor D.N. Johnston  
Councillor C.M.H. Redman  
Councillor N. M. Volkow

ABSENT: Councillor P. Calendino  
Councillor C. Jordan  
Councillor L. Rankin

STAFF: Mr. Jack Belhouse, Director Planning & Building  
Mrs. Ann Lorentsen, Administrative Officer Operations

The Public Hearing (Zoning) was called to order at 7:30 p.m.

1. "BURNABY ZONING BYLAW 1965, AMENDMENT  
BYLAW NO. 12, 2003" - BYLAW NO. 11510

Rez. #02-31

3805/07/11/25/63/69 Pender Street

Lots 19, 20; West two thirds Lots 15, 16, 18; East one third Lots 15, 16, 18; West one third and East two thirds Lot 17 and West two thirds Lot 14; all of Blk. 10, D.L. 116, Grp. 1, NWD, Plan 1236

From: R5 Residential District

To: CD Comprehensive Development District (based on RM7 Hastings Village Multiple Family Residential District, the Hastings Street Area Plan guidelines and in accordance with the development plan entitled "3800 Pender Street" prepared by Nigel Baldwin Architects Ltd.)

The purpose of the proposed rezoning bylaw amendment is to permit a low-rise multi-family development.

The Advisory Planning Commission advised Council that following its consideration of this rezoning application, a decision was reached to SUPPORT Rez. #02-31, Bylaw No. 11510.

Craig Rowland, 2971 W. 44<sup>th</sup> Avenue, Vancouver appeared before Council advising he is the applicant for the subject rezoning and along with the project architects they were available to answer questions from Council.

There were no further submissions received in connection with this application for rezoning.

MOVED BY COUNCILLOR EVANS  
SECONDED BY COUNCILLOR JOHNSTON

"THAT this Public Hearing relating to Rez.#02-31, Bylaw No. 11510 be now terminated."

CARRIED UNANIMOUSLY

2. "BURNABY ZONING BYLAW 1965, AMENDMENT  
BYLAW NO. 13, 2003" - BYLAW NO. 11511

Rez. #02-47

5042 Smith Avenue

Lot 1, D.L. 35, Grp. 1, NWD, Plan 1337

From: C1 Neighbourhood Commercial District

To: R5 Residential District

The purpose of the proposed rezoning bylaw amendment is to bring the zoning of the property into conformance with its current residential use and to permit the construction of a new two-family dwelling.

The Advisory Planning Commission advised Council that following its consideration of this rezoning application, a decision was reached to SUPPORT Rez. #02-47, Bylaw No. 11511.

Marietta Edwards, 5029 Smith Avenue, Burnaby appeared before members of Council advising she lives across the street from the subject property and is in favour of the proposed change to residential zoning.

\*\* Councillor Redman arrived at the Public Hearing at 7:35 p.m. and took her place at the Council table.

There were no further submissions received in connection with this application for rezoning.

MOVED BY COUNCILLOR EVANS  
SECONDED BY COUNCILLOR JOHNSTON

"THAT this Public Hearing relating to Rez.#02-47, Bylaw No. 11511 be now terminated."

CARRIED UNANIMOUSLY

3. "BURNABY ZONING BYLAW 1965, AMENDMENT  
BYLAW NO. 14, 2003" - BYLAW NO. 11512

Rez. #02-56

1899 Rosser Avenue

Airspace Parcel 1, D.L. 119, Grp. 1, NWD Airspace Plan LMP49418

From: CD Comprehensive Development District (based on RM5 Multiple Family Residential District, P3 Park and Public Use District, C3, C3a General Commercial District)

To: Amended CD Comprehensive Development District (based on RM5 Multiple Family Residential District, P3 Park and Public Use District, C3, C3a General Commercial District and in accordance with the development plan entitled "Preliminary Proposal for the Roof Top Terrace Enclosure For the Shark Club Burnaby" and prepared by The "A" Studio DeAgelis Architecture)

The purpose of the proposed rezoning bylaw amendment is to permit the construction of a patio enclosure extension on the roof terrace of the mixed-use commercial/residential development.

The Advisory Planning Commission advised Council that following its consideration of this rezoning application, a decision was reached to SUPPORT Rez. #02-45, Bylaw No. 11503.

A letter was received from A Parsa, #1002, 4398 Buchanan Street and G. Bereska, #1004 - 4398 Buchanan Street, Burnaby advising that they have met with the owner of the Shark Club and a number of commitments were made:

- "That there would be no music in the enclosed or open patio - only occasional piano or guitar music;
- That the intention is to create a classy restaurant on the patio with a nice view and ambiance - no noisy hockey-watching;
- That the Shark Club will have its own security guards in addition to the mall security. We are therefore not expecting or accepting any increase in the noise level when patrons are leaving the restaurant. We should also feel safe in the parking lot and street.
- That the owner will look into a system for the kitchen to prevent the smell of food from reaching the residential units."

The writers concludes that the peace and quiet of their residence is important to them and do not want it compromised by the proposed patio.

Marina Radic, 701 - 4398 Buchanan Street, Burnaby appeared before members of Council advising she is opposed to the proposed patio enclosure. The speaker informed Council that at the information meeting she attended with the developer she did not feel reassured there will be a significant reduction in noise as a result of building this structure.

In questioning what experience the developer has had in using such a structure to reduce noise in other situations it was learned that the developer has never built such a structure before and there are no comparative studies of its effect. With regard to the structure itself, Ms. Radic suggested that the material proposed for the roof of the structure be displayed for building tenants so that they may examine its clarity especially since the proposed structure will negatively impact the views of some tenants.

The adjacent two towers have a "no noise" policy between 11 pm and 6 am and if homeowners are courteous and respectful of their neighbours to consider this policy as part of a friendly neighbourhood then why should this establishment be the exception. The speaker noted that the club are proposing to place televisions on the patio and this could pose a significant increase in noise, especially if the T.V.s are used to play music. The speaker also suggested having a club with hours extended to 2 am will result in increased traffic around building complex, decrease in safety and security for building residents and possible damage to the building.

In conclusion, the speaker suggested the proposed patio structure and treatment has not been well thought out and would have a negative impact on the residents of the neighbouring towers by blocked views, increased noise, traffic, crime, a decrease in security and safety and ultimately increased cost to the homeowners. Ms. Radic asked that Council consider all these aspects when it comes to approving this application. A preferable and more reasonable proposal, suggested the speaker, would be a more traditional treatment of the patio with just a few tables, umbrellas and chairs for dining out on warm evenings until 10 pm.

In response to an inquiry as to whether she was aware a patio was already permitted on this site, Ms. Radic advised she was aware of this and does not have a problem with the patio as it now exists; she is however very much opposed to the proposed enclosure structure which will make the patio like an extension to the restaurant.

Marijana Djoric, 401 - 4398 Buchanan Street, Burnaby addressed members of Council advising she was opposed to the subject application. The speaker noted she is very upset about the proposal as her balcony looks right onto the subject patio and her view will be ruined if the proposed structure is put in place. The smell of food coming from the kitchen is also a concern for the Ms. Djoric. The speaker suggested the Club is more like a nightclub than a restaurant and she is already having problems with hearing the sound of the bass from the music. There are many retired people and seniors living in these two buildings who will be affected by increased noise and activity around the building concluded Ms. Djoric.

Roger Gibson, 3979 Willow Street, Vancouver appeared before members of Council advising he is a partner of the applicant, Mr. Teti. in this establishment and was available to answer questions of Council. In response to a query from Council Mr. Gibson advised they do plan on installing two televisions at the bar on the patio however it is not intended to use the television to play music or to have any other amplified music piped out. Mr. Gibson also clarified that the upstairs patio will primarily be a food/eating area and according to the sound engineer who has worked on this proposal the level of sound should be a fraction of that coming from existing traffic or the SkyTrain.

The sound from the patio should be minimal because of the surrounding doubled-paned glass and the opaque plexi-glass roof will keep noise in and outside access to the patio will be gated off at 10 pm. to prevent public access after that time.

In response to a query, Mr. Gibson informed Council members vehicular access/agress to the establishment will be from Lougheed Highway, valet parking will be offered which will provide more security in the parking area and they will provide security in addition to the mall security which has just been replaced.

Tina Radic, 701 - 4398 Buchanan Street, Burnaby appeared before Council members to express her opposition to the subject application. The speaker informed Council that at present you can hear the bass of the music coming from the club now and if, as is proposed, concrete is cut out to install an escalator up to the patio the noise will be much worse. Ms. Radic suggested this location is not good for an establishment of this kind as people leaving these places are usually very loud and may loiter in the area. Residents are already having to put up with this establishment as is and the speaker asked that it not be made any worse.

Mr. Roger Gibson, again appeared before Council to clarify that the concrete referred to by the previous speaker has already been cut out for the access to the patio and the opening has just been temporarily covered with a tin roof that is admittedly not very soundproof. This should be rectified once the glass cover is in place. In response to a query from Council regarding the access to the patio when it is closed at 10 pm., Mr. Gibson noted that a screen door on the south facing side of the patio will be closed and locked. The screen door is made of a perforated material and is considered to be 40% open to allow air flow. Mr. Gibson also clarified that there are stairs to the existing patio on the east side of the building with access to the stairs attained by crossing the lobby and then going upstairs.

Marilyn LaPointe, #7 - 1366 W. 13<sup>th</sup> Avenue, Vancouver appeared before Council members advising she is an interior designer, currently working on the subject establishment. The speaker informed Council that the original plan for the patio had been a more traditional setting with a fabric awning; however upon the advice of city staff, who were concerned about suppressing noise, this plan was developed. The enclosure system was the recommendation of an acoustical engineer who has been working with them to control sound from the patio and within the facility. The speaker noted that this system is a little unusual but requirements of the building bylaw make it necessary that one side of the enclosure be open.

In response to a query from Council regarding a comparable system elsewhere in the Lower Mainland, Ms. LaPointe advised she did not have that information but would investigate and get back to staff.

Marina Radic, 701 - 4398 Buchanan Street, again appeared before Council members to stress that neighbours did not have a problem with the patio as it had been used by the previous restaurant because they followed a neighbour friendly policy of having the patio cleared and everyone back into the restaurant by 10 pm. She does not feel this structure will be of any benefit to the residents and the open grassed space is preferable.

Tina Radic, 701 - 4398 Buchanan Street, again appeared before members of Council to remind them that, even with the screen door, one side of this enclosure is open and, therefore, the noise cannot be completely cut off.

There were no further submissions received in connection with this application for rezoning.

MOVED BY COUNCILLOR EVANS  
SECONDED BY COUNCILLOR JOHNSTON

"THAT this Public Hearing relating to Rez.#02-56, Bylaw No. 11512 be now terminated."

CARRIED UNANIMOUSLY

A D J O U R N M E N T

MOVED BY COUNCILLOR JOHNSTON  
SECONDED BY COUNCILLOR EVANS

"THAT this Public Hearing (Zoning) do now adjourn."

CARRIED UNANIMOUSLY

The Public Hearing (Zoning) adjourned at 8:20 p.m.

Confirmed:

Certified Correct:

*Deek Conyain*  
MAYOR

*Ann L. Lombard*  
ADMINISTRATIVE OFFICER OPERATIONS