

2004 November 23

A Public Hearing (Zoning) was held in the Council Chamber, City Hall, 4949 Canada Way, Burnaby, B.C. on Tuesday, 2004 November 23 at 7:30 p.m.

PRESENT: Mayor D.R. Corrigan
Councillor P. Calendino
Councillor S. Dhaliwal
Councillor D. Evans
Councillor D.N. Johnston
Councillor C. Jordan
Councillor C.M.H. Redman (*Arrived 7:43 pm*)
Councillor N. M. Volkow

ABSENT: Councillor L. Rankin

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

The Public Hearing was called to order at 7:32 p.m.

1. "BURNABY ZONING BYLAW 1965, AMENDMENT
BYLAW NO. 68, 2004" - BYLAW NO. 11812

Rez. #04-19

2150 Beta Avenue - located within the Brentwood Town Centre Development Plan area on the south side of Sumas Street between Delta and Beta Avenues

Lot 123, D.L. 124 Group 1, NWD Plan 36610

From: M2 General Industrial District

To: CD Comprehensive Development District (based on RM2, RM3 and RM5 Multiple Family Residential District, P3 Park and Public Use District and Brentwood Town Centre Development Plan as guidelines and in accordance with the development plan entitled "Brentwood - Trailmobile Site" prepared by Ramsay Worden Architects)

The purpose of the proposed zoning bylaw amendment is to permit the development of three low-rise apartment buildings, one high-rise apartment tower and a community use facility.

At the Public Hearing held 2004 October 26 Council adopted a motion to adjourn the Public Hearing for Rezoning Reference #04-19, Bylaw No. 11812 to 2004 November 23 at 7:30 p.m. in the Council Chamber at Burnaby City Hall, 4949 Canada Way, Burnaby, BC. The Public Hearing will now continue.

Mr. Albert Givton, Woodland Investments Ltd., 2350 Beta Avenue, Burnaby appeared before Council advising that his company has, for 44 years, owned the property to the immediate south, west and north of the subject site, comprising approximately 24 acres. Woodland Investment's M2 zoned property supports approximately 40 tenants and 250 employees in a variety of small to medium sized businesses providing a wide range of services.

The speaker noted that, in 1990 he had initiated a rezoning process to put in place a long term plan to redevelop his property which included an industrial area to the south, combined with high-tech office and other business on the upper portion of the property. In 1993 the City of Burnaby came up with a new concept for the area which included a park, community centre and a school, the bulk of which is to be located on Woodland Investments property. In 1994 Woodland Investment made a decision to develop this within the present zoning because the residents of Burnaby would be better served by creating an employment, commercial, small manufacturing and business environment located near residences, shopping and transit area and will introduce stability for those many employees and businesses already located on the property.

The subject application by Polygon for 2150 Beta Avenue will cause long term damage to them and their tenants, the speaker noted, and Woodland Investment objects to the proposed application. The City has never approached Woodland Investment about the change of use of their property as proposed in the OCP, nor was there an opportunity for input or even advance notice about this significant use change, until they were presented to the public at large. Woodland's tenant businesses and their employees are concerned about the future of their businesses and their livelihood.

** Councillor Redman entered the Public Hearing at 7:43 p.m.

An anticipated reduction in the scope of school/park/recreation site as outlined in the OCP should mean Burnaby will be able to find a more appropriate alternative location elsewhere in the City. To date a number of development plans for Woodland Investment's properties have been pursued but have failed due, in a substantial part, to increasing demands by the City. Mr. Givton expressed frustration with the City's lack of communication on these many issues and the lack of respect and consideration given to them and their tenants, especially with regard to the subject application. Woodland Investments is willing to cooperate with the City and their neighbours but not under duress and with threats. The speed at which the City has been pursuing this application does not create confidence that the interests of all parties have been taken into account, speaker noted. A 32% increase in taxes over the past year has also made doing business in Burnaby difficult, small businesses cannot exist in this environment.

The matter of some of his tenant businesses encroaching onto City property has been dealt with in an unfair manner, suggested the speaker, as they have been threatened with notices to vacate by the City. Woodland Investments will not tolerate any ill effects to their property or to the business of their tenants as a result of this application, stressed Mr. Givton. Of particular concern is a proposed sale of a portion of Juneau Street to Polygon, an opportunity not offered to Woodland Investments, and the protection of access to their property - access to must be maintained from Beta Avenue because large trucks are frequently accessing the site.

In conclusion, Mr. Givton urged Council to reconsider their approach to this application and ensure an unbiased position by the City in this matter. It is important that all plans, the City's and those of neighbouring developers are realized in such a way that minimizes the impact on viable businesses.

In conclusion, the speaker advised Woodland Investments intends to stay where it is for many years to come and he plans to spearhead the development of his property and expand services in the Brentwood area. For the success of the subject application it is imperative for the City to engage in consultation with Woodland Investments about its development plans for 2005 onward.

In response to a query from Council regarding his concerns Mr. Givton advised that access to the site, potential blockage of certain points of access, construction and, generally, the overall change in plans for the area that will negatively impact on his property and the businesses of his tenants.

Mr. Givton was accompanied by Andrew Chisholm, 4388 Buchanan Street who noted that effectively this application is the first phase of the OCP in this area and, considering that the OCP calls for a large percentage of Woodland Investments's property to be designated for a school, park and recreation centre, they and their tenants are extremely upset about possible future impact on their businesses.

In response to a query from Council, Mr. Chisholm noted that the notice to vacate delivered to those tenants in buildings alleged to be encroaching on City lands, coupled with the uncertainty created with the OCP designation has created a unstable and unhealthy businesses environment for all their tenants and potential tenants.

The Director Planning and Building, Mr. Belhouse advised that when survey work was undertaken in relation to this application, it was found that buildings on the Juneau Street property were encroaching on City property and notices to vacate were issued by the Licence Department. At the time of the last Public Hearing it was indicated the party on the Juneau ROW east of property would be given ample time (they asked for a year) and Planning staff will work with them to set a target date. With respect to the property to the west, staff have communicated with them and they will work with them to set out a schedule that will met their needs and those of Polygon.

Orly Givton, 2350 Beta Avenue, Burnaby appeared before Council to clarify the amount of time given to specific tenants to vacate their premises, as the letter she had seen established the deadline of January 2005.

J. Belhouse, Director Planning & Building advised that, following the previous public hearing and after the letters had been sent, staff have been working with the tenants in question on an agreeable, fair time period to vacate.

Anne Bancroft-Jones, Polygon Homes Ltd., 900 - 1333 West Broadway, Vancouver, the applicant for the subject rezoning, appeared at the Public Hearing to advise the subject application has been developed in line with Burnaby's Official Community Plan and the Brentwood Town Centre Plan. The speaker further noted that they are intending to proceed with their development plan knowing that Woodland Investments is there and further they have no intention of blocking or impeding access to any of the Woodland Investment properties. They are willing to work with neighbouring tenants to allow their relocation from the encroaching buildings. Ms. Bancroft-Jones advised in the spirit of cooperation they will be amending the phasing plan for the development to allow additional time for such relocation; however the questions of subdivision has yet to be worked out. In conclusion the speaker requested Council terminate the public hearing this evening in order to allow the process to continue.

MOVED BY COUNCILLOR EVANS:

SECONDED BY COUNCILLOR JOHNSTON:

"THAT this Public Hearing relating to Rez. #04-19, Bylaw #11812 be now terminated."

CARRIED UNANIMOUSLY

2. "BURNABY ZONING BYLAW 1965, AMENDMENT
BYLAW NO. 78, 2004" - BYLAW NO. 11840

Rez. #03-74

7461, 7471 & 7493 Kingsway, 7328, 7334 Hubert Street and 7331 Sixteenth Avenue - located on the south side of Kingsway, between Hubert St. and 16th Ave.

Lot 7, D.L. 30, Grp 1, NWD Plan 4098, Lot 8, D.L. 30, Group 1, NWD Plan 4098, Parcel "B" (Exp. Pl. 10248) Lot 50, D.L. 30, Group 1, NWD Plan 3036, Parcel "A" (Ref. Pl. 2520) Except: Parcel One (Ref. Pl. 6407), Blk 50, D.L. 30, Group 1, NWD Plan 3036, Lots 10, 9, D.L. 30, Group 1, NWD Plan 4098, Blk 50 Except: Firstly: Parcel "A" (Ref. Pl. 2520), Secondly: Parcel "C" (Ref. Pl. 6406) Thirdly: Parcel "B" (Exp. Pl. 10248), D.L. 30, Group 1, NWD Plan 3036

From: R5 Residential District

To: CD Comprehensive Development District (based on RM2 Multiple Family Residential District and in accordance with the development plan entitled "Stacked Townhomes Kingsway & 16th Burnaby" prepared by Douglas R. Johnson Architect Ltd.)

The purpose of the proposed zoning bylaw amendment is to permit a stacked townhouse development.

MOVED BY COUNCILLOR EVANS:

SECONDED BY COUNCILLOR JOHNSTON:

"THAT this Public Hearing relating to Rez. #03-74, Bylaw #11840 be now terminated."

CARRIED UNANIMOUSLY

3. "BURNABY ZONING BYLAW 1965, AMENDMENT
BYLAW NO. 75, 2004" - BYLAW NO. 11834

Rez. #04-48

Ptn. of 7450 Lowland Drive - located within a multi-tenant industrial building on the north-east side of Lowland Drive between Byrne Road and Beedie Street

Strata Lot 2, D.L. 166A, Group 1, NWD Strata Plan NW3297, together with an interest in the common property in proportion to the unit entitlement of the Strata Lot as shown on Form 1.

From: M3 Heavy Industrial District

To: M3 "r" Heavy Industrial District

The purpose of the proposed zoning bylaw amendment is to permit the development of a restaurant oriented to the surrounding industrial area.

A letter dated 2004 November 22 was received from Bill Davies, Wm. Davies & Sons Ltd., 7441 Lowland Drive, Burnaby advising that as the owner of the properties addressed 7435 to 7441 Lowland Drive and after consulting the employees of Surplus Sam's and Piedmont Sheet Metal located at these addresses he wishes to inform Council that they have responded favourably to the applicant's proposal. Existing restaurants in the area have long lineups during the lunch time and there is no specialty coffee establishment in the area. The writer concludes they fully support the subject proposal and urge Council to accept it.

A letter dated 2004 November 23 was received from Bryan Robinson, President, Atlas Anchor Systems (BC) Ltd., 101 - 7450 Lowland Drive, Burnaby advising of his company's wish to see the subject application denied. The writer's notes an existing problem with rodents in the building; sufficient supply of local services for coffee and food stuffs and limited parking as reasons for recommending that Council decline the subject zone change.

Anton Heggen, 7840 Williard Street, Burnaby appeared before Council advising that as the owner/operator of a small restaurant located in at 4663 Byrne road he is opposed to the subject application. In addition to his existing restaurant Mr. Heggen advised he also owns another site, already appropriate zoned and located in the same area, where he plans on opening another restaurant facility once more development takes place. Mr. Heggen believes that at this time there is already sufficient restaurants seats available in the area and, although there may be some line-ups during the lunch hour, customers needs are being met. Mr. Haggen also noted that is not enough parking at the proposed location for this type of use.

In conclusion, the speaker noted that he is not opposed to well planned and thought out development of restaurant services for the business parks, such as those proposed for future phases, but this application has not been well planned and should be rejected.

MOVED BY COUNCILLOR EVANS:

SECONDED BY COUNCILLOR JOHNSTON:

"THAT this Public Hearing relating to Rez. #04-48, Bylaw #11834 be now terminated."

CARRIED UNANIMOUSLY

4. "BURNABY ZONING BYLAW 1965, AMENDMENT
BYLAW NO. 74, 2004" - BYLAW NO. 11818

Rez. #04-46

Ptn. of 4538 Kingsway - located on the second floor within the Crystal mixed-use development at the southeast corner of Kingsway and Willingdon Avenue but the subject skysign is located on the sixth floor parapet

All that portion (Easement BN 75174) of the common property of LMS 3905 as shown on Explanatory Plan LMP 41555

From: CD Comprehensive Development District (based on RM3 Multiple Family Residential District, C3 General Commercial District, P2 Administration and Assembly District)

To: Amended CD Comprehensive Development District (based on RM3 Multiple Family Residential District, C3 General Commercial District, P2 Administration and Assembly District and in accordance with the development plan entitled "HSBC Crystal - Roof Top Tender Package" prepared by HSBC Bank Canada)

The purpose of the proposed zoning bylaw amendment is to permit modification of an existing skysign.

A letter dated 2004 November 23 was received from AA Property Management Ltd., Agent for Strata Plan LMS 3863, The Crystal Mall raising their objection to the subject zoning bylaw amendment. The writer notes that the HSBC office located in the Crystall Mall is not a major head office, the easement grantor (The Crystal Office) and grantee (Crystal Mall) object to the subject amendment and signs of the Crystal complex fall under the Crystal Corporation's guidelines and the subject sign should be approved by the Corporation in view of current statutes and common laws.

Jeffrey Chu, Chairman, Council Strata Plan Owners LMS 3863, 2819 - 4500, Kingsway appeared before members Council advising that the subject sign does not comply with the bylaws of the strata Council and violates the easement agreement between The Crystal Office and Crystall Mall. The speaker noted that HSBC at this location is only a retail branch and not a head office and; further, they are not owners nor members of the strata council and yet they are effectively taking over the Crystal's identity by having such overwhelming signage on the Crystal building that customers are given the perception that HSBC owns the Crystal. Mr. Chu urged Council not to approve the rezoning application.

In response to a query from Council whether he had opposed the first skysign HSBC had installed, Mr. Chu advised he was not located in the building at that time.

In response to a query from Council as to whether HSBC is legally permitted to use the easement to locate a skysign, the Director Planning and Building, Mr. Belhouse informed Council the City Solicitor has indicated he believes they have that right. Mr. Belhouse noted that he will have the Solicitor again review the legal right of HSBC to use the easement for a Skysign.

Mr. Chu reiterated his opinion that HSBC is still in violation of the strata council bylaws regarding signage because a sign is a still a sign, regardless of it being a "Skysign" and the City's definition of what that means. Mr. Chu also noted that The Crystal have been trying to have their own signage made more visible but to date have not been successful.

In response to a query from Council as whether HSBC has offices in the upper level of the Crystal Tower, Mr. Chu advised HSBC are only accessed at the retail mall level and is open to the next floor up.

Aaron Leung, AA Property Management Ltd., 2819 - 4500 Kingsway, and represents The Owners the Strata Plan LMS 3905 (known as The Crystal Office) and The Owners Strata Plan LMS 3863 (known as the Crystal Mall) who are opposed to this application. Mr. Leung questioned, with regard to the easement registered at LTO, is the City aware of there being discharge and release documents for that easement? Secondly, Mr. Leung questioned whether Council approval of the bylaw will be in violation of the Strata Property Act which requires modification of common areas to be approved by the Strata Council. Lastly, the speaker questioned Section 4.2 of the staff report where it indicates the HSBC occupies 17% of the office component of the Crystal, when as far as they are concerned HSBC is located in the mall not the office tower.

Dr. Lee, #301 - 4538 Kingsway, Crystal Office appeared before Council to express his opposition to the subject application. Mr. Lee noted the HSBC are located in the Mall, not the tower and not only is it confusing for patrons who think HSBC are in the tower but it appears as if HSBC own the tower when, in fact, they do not. Dr. Lee suggested HSBC already has plenty of signage, including the existing logo skysign, and by demanding more are simply showing off as if the building belonged to them.

In response to a query from Council as to whether he objects to a skysign in general or just to its use by HSBC, Dr. Lee advised he objects to HSBC using the tower of a skysign when that space should be used for a occupant of the tower.

In response to a query from Council, Dr. Lee confirmed that HSBC are not located in the office tower, but are located on the mall level and second floor, while the office component start on the 3rd floor.

S. Chang, 1203 - 555 Austin Avenue, Coquitlam appeared before Council advising that as the representative for 608 and 610 - 4538 Kingsway and as a member of the Strata Council for the Crystal Office, he is opposed to the subject skysign. Mr. Chang advised that HSBC are not members of the Strata Council and do not pay strata fees and yet want to receive the benefit of using the Strata Tower to promote their business. Mr. Chang suggested that HSBC are by-passing the Crystal Strata Council and coming straight to the City because they know they will not receive approval from the Strata Council.

MOVED BY COUNCILLOR EVANS:

SECONDED BY COUNCILLOR JOHNSTON:

“THAT this Public Hearing relating to Rez. #04-46, Bylaw #11818 be now terminated.”

CARRIED UNANIMOUSLY

5. "BURNABY ZONING BYLAW 1965, AMENDMENT
BYLAW NO. 76, 2004" - BYLAW NO. 11835

Rez. #04-17

6990 Arcola Street - located on the south side of Arcola Street between Griffiths Avenue and Salisbury Avenue

Lot "A", D.L. 95, Group 1, NWD Plan 12434

From: R5 Residential District

To: CD Comprehensive Development District (based on RM2 Multiple Family Residential District use and density and Edmonds Town Centre Development Plan guidelines, and in accordance with the development plan entitled "6990 Arcola Street" prepared by Western View Home Design Ltd.)

The purpose of the proposed zoning bylaw amendment is to permit the construction of a 4-unit townhouse development with garage parking.

Joanna Dalla-Vecchia, 6976 Arcola Street, Burnaby appeared at the Public Hearing to express her opposition to the subject application. She believes it would be a mistake to chop up this block and would not be suitable to the long term plans for the neighbourhood, because with Highgate coming on-stream, we should be looking at improving the quality of housing. The speaker noted this site would more suitable for low-rise multi-family housing and with the right developer and right plan for this block that vision could be achieved. Ms. Dalla-Vecchia pointed that if this developer is allowed to build four units what is there to prevent her in-laws, who own 6950 Arcola, from doing the same thing which would then result in the whole block really being cut up.

In conclusion, the speaker urged Council to pursue a low-rise multi family development for this block which would result in more tax revenue for the City and an appropriate form of housing, close to transit and the new mall.

MOVED BY COUNCILLOR EVANS:

SECONDED BY COUNCILLOR JOHNSTON:

"THAT this Public Hearing relating to Rez. #04-17, Bylaw #11835 be now terminated."

CARRIED UNANIMOUSLY

6. "BURNABY ZONING BYLAW 1965, AMENDMENT
BYLAW NO. 77, 2004" - BYLAW NO. 11838

Text Amendment

The purpose of the proposed text amendment is to amend the rezoning application fees in the Burnaby Zoning Bylaw.

There were no submissions with regard to this application.

MOVED BY COUNCILLOR EVANS:
SECONDED BY COUNCILLOR DHALIWAL:

"THAT this Public Hearing relating to Text Amendment, Bylaw #11838 be now terminated."

CARRIED UNANIMOUSLY

ADJOURNMENT

MOVED BY COUNCILLOR DHALIWAL:
SECONDED BY COUNCILLOR JOHNSTON:

"THAT this Public Hearing do now adjourn."

CARRIED UNANIMOUSLY

The Public Hearing adjourned at 9:01 p.m.

Confirmed:

Certified Correct:


MAYOR


ADMINISTRATIVE OFFICER OPERATIONS