

To General  
Purposes - Mar 2/09  
File 12-8060-20  
7882

**EXCERPT**

**FROM THE MINUTES OF THE  
GENERAL PURPOSES COMMITTEE MEETING**

**HELD ON JANUARY 6, 2009**

# General Purposes Committee

Tuesday, January 6, 2009

## PLANNING AND DEVELOPMENT DEPARTMENT

2. **PROPOSAL TO ABANDON OFFICIAL COMMUNITY PLAN AND ZONING BYLAWS – APPLICATION BY ANDREW CHEUNG ARCHITECTS INC. FOR REZONING AT 3131, 3171, 3191, 3211, 3231, 3251, 3271, 3291, 3331, 3371, 3391 & 3411 SEXSMITH ROAD AND 3200, 3220, 3240, 3280, 3300 & 3320 NO. 3 ROAD FROM SINGLE-FAMILY HOUSING DISTRICT, SUBDIVISION AREA F (R1/F), 3360 NO. 3 ROAD FROM ROADSIDE STAND (CLASS C) DISTRICT (RSC), AND 8511 CAPSTAN WAY FROM AUTOMOBILE-ORIENTED COMMERCIAL DISTRICT (C6) AND GAS STATION DISTRICT (G1) TO SCHOOL AND PUBLIC USE (SPU), COMPREHENSIVE DEVELOPMENT DISTRICT (CD/181), AND COMPREHENSIVE DEVELOPMENT DISTRICT (CD/182)**

(Report: December 17, 2008, File No.: RZ 03-254977, 12-8060-20-7882) (REDMS No. 2545667)

The Director of Development, Brian Jackson, accompanied by the General Manager of Planning and Development, Joe Erceg, provided a historical overview related to Rezoning Application RZ 03-254977, and the following was noted:

- the application had been considered at the May 22, 2007, Public Hearing at which time the related bylaws were given third reading. Due to the complexity of the subject application, the rezoning considerations are lengthy and costly;
- one year after the Public Hearing, the Chief Administrative Officer sent the applicant a letter (dated May 29, 2008) requesting (i) that immediate action be taken to satisfy the requirements of outstanding rezoning conditions related to the application; and (ii) a response from the applicant by the deadline date of November 28, 2008; and
- in response to the CAO's letter, the applicant responded, on November 27, 2008, with several suggestions on a few of the outstanding issues, none of which are satisfactory to the City, or in the case of the Capstan Station, to Translink. The City responded by advising the applicant on December 4, 2008, that a recommendation to repeal the bylaws associated with the application would be presented to Council.

Mr. Jackson also advised that:

- City staff had made considerable effort to work with the applicant, proposing compromises regarding several issues, including the Capstan Canada Line Station funding;
- City staff believe that the applicant is far from reaching the common goals of completing the rezoning conditions; and
- that abandoning the related bylaws would allow for new funding opportunities to be explored for Capstan Station.

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During the ensuing discussion and in answer to questions, the following was noted:

- City staff had expressed concerns regarding the project and level of cooperation between the developers even prior to the economic recession;
- the developers had been requested to seek arbitration to resolve issues amongst themselves, and the City had not been advised of arbitration having taken place;
- subsequent to this application having received third reading, updates to the City Centre Area Plan (CCAP) were approved by Council, resulting in enhanced requirements for affordable housing, childcare amenities, and sustainability. The CCAP would ensure the same, or better package of community benefits in association with a development application;
- submission of a new application in conformity with the updated CCAP requirements may result in doubled benefits related to provisions for community amenities such as childcare space and affordable housing in comparison to those offered by Rezoning Application RZ 03-254977;
- if the project does not proceed, the Development Cost Charges (DCCs) received by the City from the developers would be returned with interest, however, application fees would not be refundable. Staff was requested to provide Committee members with the total of application fees paid by the applicant;
- granting an additional extension to meet the rezoning conditions would result in a continued suspension of all other potential development and funding opportunities;
- abandoning the rezoning application and associated bylaws would not jeopardize the CCAP, as the Plan reflects that the proposed development was not guaranteed;
- securing funding for the Capstan Canada Line Station prior to opening Capstan Village was a requirement under the CCAP;
- Federal and Provincial infrastructure programs may provide alternate funding sources for the development of Capstan Canada Line Station. It was noted that the Province's Green Communities Legislation was currently at third reading. It was further noted that abandoning the bylaws associated with the proposed project may provide an opportunity to speak to other levels of government regarding funding options; and
- other transit oriented funding possibilities that may be explored include: (i) revisions to DCC's to enhance transit oriented funding; and (ii) providing developers with the option to contribute towards transit enhancement in exchange for reduced parking requirements.

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Thomas Leung, Western Construction, and one of the developers for this project, spoke about his involvement for over 10 years, and expressed appreciation to City staff for their helpfulness, stating that the project was a "win-win" situation for both the City and developers. He advised the Committee that Western Construction was prepared to honour its share of the contribution towards the design and construction of Capstan Canada Line Station, and he provided information about the outstanding issues. In conclusion Mr. Leung requested that Council grant an extension of five to six months. Mr. Leung clarified that he could not speak on behalf of Pinnacle International Development Inc.

Grace Kwok, Anson Realty Ltd., stated that she had been attending the meetings related to Rezoning Application RZ 03-254977 for the past four years. Ms. Kwok indicated it was her understanding that Pinnacle International Development Inc. was prepared to seek arbitration to resolve disagreements with the other developers, and was seeking an extension from the City of approximately five to six months.

During the ensuing discussion and in answer to questions, Ms. Kwok noted that an appraisal of the site is forthcoming in order to determine the difference in value since the appraisal in April, 2007. She further noted that she could not speak on behalf of Pinnacle International Development Inc. regarding the resolution of issues amongst the developers.

Peter Webb, Concord Pacific Group Inc., and one of the minority developers for Rezoning Application RZ 03-254977, addressed the Committee specifically regarding the issue of arbitration. He advised that progress between the developers had been made since May 29, 2008, including a draft legal agreement. Mr. Webb indicated that arbitration made good sense to resolve issues associated with the relationship of the developers rather than the rezoning conditions.

In answer to further questions from Committee members, Thomas Leung advised that information relating to the contributions towards the Capstan Canada Line Station, affordable housing, and childcare facility had not been made public due to disagreements amongst the developers. He also advised that the list of disagreements had been quite lengthy, however, as a result of a meeting with the City's CAO that list had been reduced to three items which were to be arbitrated.

Mr. Leung further advised that he believed an extension of four to six weeks would allow for the following three key items to be addressed between the developers through arbitration: (i) parking configuration between development sites; (ii) entitlement to a disputed buildable area of approximately 20,000 square feet; and (iii) distribution of a City owned lot amongst the developers. He expressed doubt that the required legal agreements could be in place within the time frame.

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It was moved and seconded

*That the matter regarding Rezoning Application RZ 03-254977 be tabled until the General Purposes Committee meeting scheduled to be held on Monday, March 2, 2009.*

The question on the motion was not called, as discussion continued during which various comments were made about the level of progress required by the applicant and developers prior to March 2, 2009. There was general agreement amongst Committee members that this was a one time only extension. Satisfaction of rezoning conditions, including financial arrangements acceptable to the City for future contributions to the Capstan Canada Line Station must be decided upon by that time and substantial progress made on all other issues.

The question on the motion was then called, and it was **CARRIED**.