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2011-JUL-04

STAFF REPORT

REPORT TO: A. TUCKER, DIRECTOR OF PLANNING,
COMMUNITY SAFETY & DEVELOPMENT

FROM: B. CORSAN, MANAGER, PLANNING SECTION,
COMMUNITY SAFETY & DEVELOPMENT

RE: REPORT OF THE PUBLIC HEARING HELD
THURSDAY, 2011-JUN-23 FOR ZONING BYLAW NO. 4500

STAFF'S RECOMMENDATION:

That Council receives the report and the minutes of the Public Hearing held on Thursday 2011-JUN-23.

EXECUTIVE SUMMARY:

A Public Hearing was held on 2011-JUN-23 with the sole subject of the proposed Zoning Bylaw No. 4500. Approximately 45 members of the public were in attendance. Minutes of the Public Hearing are attached.

BACKGROUND:

1. BYLAW NO. 4500:

Proposed New Zoning Bylaw

Bylaw No. 4500, if enacted, will repeal the existing "ZONING BYLAW 1993 NO. 4000" and replace it with a new comprehensive zoning bylaw that will affect all land within the City of Nanaimo.

Zoning Bylaw No. 4500 contains comprehensive regulations affecting land use, density, minimum parcel sizes for subdivision, setbacks, location and size of buildings and structures, and landscaping.

The proposed new Zoning Bylaw No. 4500 is intended to be more user-friendly and to reflect the goals and objectives of planNanaimo, the City's Official Community Plan (OCP), which embraces the concepts of complete communities, sustainability, and growth management. Some elements of the existing Zoning Bylaw have been carried over into the proposed new Zoning Bylaw No. 4500; for example, the park zones and the downtown zones from the existing bylaw have been reformatted within the new bylaw but have not been changed. However, Zoning Bylaw No. 4500 contains a number of changes from existing Zoning Bylaw No. 4000.

Some of the significant changes are to:

1) Reduce the minimum allowable single family lot size from 600m^2 to 500m^2 in certain residential zones in order to meet the increased density goals of the OCP.

2) Allow some flexibility in lot size (10% variability) within the R1 Zone provided the average lot size within a subdivision is equal to or greater than 500m^2.
3) Reduce minimum lot size and dimensions for subdivision where a lane exists.
4) Allow one duplex on R1 zoned corner lots between 700m^2 and 1000m^2 in area.
5) Continue to allow secondary suites in accessory buildings but reduce the minimum lot size needed to 800m^2 and increase building height to 7m in order to allow for a 1½ storey secondary suite within the roof system of an accessory building.
6) Base maximum allowable accessory building size on lot size (13% of lot size to maximum of 90m^2) and exclude parking from that portion of the building size calculation where no garage exists within the principal dwelling.
7) Increase the allowable height of a single family dwelling from 8.25m to 9m, where measured from grade, and from 5 to 5.5m where measured from curb for certain single dwelling residential zones.
8) Allow front porches to encroach into the front yard setback without being included in lot coverage calculation in certain low density residential zones.
9) Decrease the maximum allowable side and rear yard fence height from 2.4m to 1.8m in certain single dwelling residential zones.
10) Create a new zone (R7) which will allow for non-strata townhouse development.
11) Reward sustainable development practices and provision of certain amenities with additional density.
12) Create a High Tech Zone (I3) that allows for high tech and small scale commercial / industrial uses.
13) Allow urban food gardens of up to 600m^2 on all lots, which will allow for the sale of food grown on the site.
14) Create new Corridor Zones to reflect the Corridor designation of the OCP in order to focus development and density along major travel corridors. These zones prohibit parking between the street frontage and the front face of a building; and establish maximum setbacks and minimum height requirements for new development within Corridor Zones.
15) Allow residential use in most Commercial Centre Zones.
16) Establish a maximum allowable size for most stand-alone commercial uses within the Corridor, Local Service Centre, Neighbourhood Centre and City Commercial Centre Zones.

**** Important note: The above list does not represent all the changes within the proposed new Zoning Bylaw No 4500. Interested persons should consult the text of Zoning Bylaw No. 4500.***

There were 12 written and 15 verbal submissions with regard to Zoning Bylaw No. 4500.

This application appears before Council this evening for consideration of Third Reading.

Respectfully submitted,

FOR Ted Swabey, General Manager
Community Safety & Development

B. Corsan
Manager, Planning Section
Community Safety & Development

A. Tucker
Director of Planning
Community Safety & Development

/pm
Council: 2011-JUL-11
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MINUTES OF THE PUBLIC HEARING HELD PURSUANT TO THE LOCAL GOVERNMENT ACT, IN THE VANCOUVER ISLAND CONFERENCE CENTRE, SHAW AUDITORIUM, 101 GORDON STREET, NANAIMO, BC, ON THURSDAY, 2011-JUN-23, TO CONSIDER THE CITY OF NANAIMO ZONING BYLAW NO. 4500

PRESENT: His Worship Mayor J.R. Ruttan, Chair
Councillor W.L. Bestwick
Councillor G.E. Greves
Councillor W.J. Holdom
Councillor D.K. Johnstone
Councillor J.A. Kipp
Councillor J.F. Pattje
Councillor L.J. Sherry
Councillor M.W. Unger

STAFF: A. Tucker, Director of Planning
B. Corsan, Manager, Planning Section
D. Stewart, Planner, Planning Section
P. Masse, Planning Clerk, Planning Section

PUBLIC: There were approximately 45 members of the public present.

CALL TO ORDER:

Mayor Ruttan called the meeting to order at 7:08pm and advised that members of City Council, as established by provincial case law, cannot accept any further submissions or comments from the public following the close of a Public Hearing. Mr. Tucker explained the required procedures in conducting a Public Hearing and the regulations contained within Section 890 of the *Local Government Act*. He advised that this is the final opportunity to provide input to Council before consideration of Third Reading of Bylaw No. 4500 at the Council meeting of 2011-JUL-11.

1. BYLAW NO. 4500:

Proposed New Zoning Bylaw

Bylaw No. 4500, if enacted, will repeal the existing Zoning Bylaw 1993 No. 4000 and replace it with a new comprehensive zoning bylaw that will affect all land within the City of Nanaimo.

Zoning Bylaw No. 4500 contains comprehensive regulations affecting land use, density, minimum parcel sizes for subdivision, setbacks, location and size of buildings and structures, and landscaping.

The proposed new Zoning Bylaw No. 4500 is intended to be more user-friendly and to reflect the goals and objectives of planNanaimo, the City's Official Community Plan (OCP), which embraces the concepts of complete communities, sustainability, and growth management. Some elements of the existing Zoning Bylaw have been carried over into the proposed new Zoning Bylaw No. 4500; for example, the park zones and the downtown zones from the existing bylaw have been reformatted within the new bylaw but have not been changed. However, Zoning Bylaw No. 4500 contains a number of changes from existing Zoning Bylaw No.4000.

Some of the significant changes are to:

1) Reduce the minimum allowable single family lot size from 600m^2 to 500m^2 in certain residential zones in order to meet the increased density goals of the OCP.
2) Allow some flexibility in lot size (10% variability) within the R1 Zone provided the average lot size within a subdivision is equal to or greater than 500m^2.
3) Reduce minimum lot size and dimensions for subdivision where a lane exists.
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5) Continue to allow secondary suites in accessory buildings but reduce the minimum lot size needed to 800m^2 and increase building height to 7m in order to allow for a 1½ storey secondary suite within the roof system of an accessory building.
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8) Allow front porches to encroach into the front yard setback without being included in lot coverage calculation in certain low density residential zones.
9) Decrease the maximum allowable side and rear yard fence height from 2.4m to 1.8m in certain single dwelling residential zones.
10) Create a new zone (R7) which will allow for non-strata townhouse development.
11) Reward sustainable development practices and provision of certain amenities with additional density.
12) Create a High Tech Zone (I3) that allows for high tech and small scale commercial / industrial uses.
13) Allow urban food gardens of up to 600m^2 on all lots, which will allow for the sale of food grown on the site.
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15) Allow residential use in most Commercial Centre Zones.
16) Establish a maximum allowable size for most stand-alone commercial uses within the Corridor, Local Service Centre, Neighbourhood Centre and City Commercial Centre Zones.

**** Important note: The above list does not represent all the changes within the proposed new Zoning Bylaw No 4500. Interested persons should consult the text of Zoning Bylaw No. 4500.***

<u>Ms. Susana Michaelis, #212 - 347 Seventh Street</u> – Neither Opposed nor In Favour

- Has not read the entire proposed bylaw; is speaking to the urban food garden portion, which she is in support of. Appreciates the hard work, research and forward thinking approach taken by Staff.
- Her Co-Housing community owns a 4.5-acre property; she does not believe that larger properties should be limited to a size restriction of 600m^2 for the cultivation of food products. Noted that people who own larger properties are likely more interested in growing food, as it is a good use of resources and most large properties are former farming properties.
- The Pacific Gardens Co-Housing community has wanted to grow their own food for a long time. Looking forward to gate sales, believes it will be a vibrant addition to the community.

Councillor Kipp congratulated the Co-Housing group for the work they have done. Asked Councillor Holdom for his opinion regarding 600 metres squared versus 600 square metres.

Councillor Holdom noted he does not believe it should be read as 600 metres along each side, adding the ambiguity should be addressed. Believes 600m^2 indicates the area of a property and not the distance along each side.

Councillor Holdom noted to the speaker that a size restriction does not apply if the food is for owner consumption; it only applies if the food is grown for commercial use. Asked Staff if there is a provision in the proposed bylaw for larger lots.

Mr. Tucker noted that size restriction is applied to all land in Nanaimo; the intent is to allow all lots, regardless of size, to cultivate food for sale or consumption.

Councillor Holdom asked Staff if the size restriction could be amended and, if so, if it would require another Public Hearing process.

Mr. Tucker noted a Public Hearing would not be necessary as it is a Condition of Use.

Councillor Pattje asked the speaker what she would consider a reasonable size for a food garden on the Co-Housing community property.

Ms. Michaelis noted that being permitted to grow food on 50% of the property would be sufficient.

Councillor Pattje asked Staff for an approximate number of properties in Nanaimo that are 4.5 acres or more in size.

Mr. Tucker noted that he could not provide an exact number of larger lots in Nanaimo; however, the original subdivision in the south end was comprised of lots that were 5 acres in size. It is likely there are numerous properties that are still 5 acres in size.

Councillor Johnstone asked the speaker how much of the property is comprised of orchards.

Ms. Michaelis noted that the orchard trees on the property are heritage trees, it is difficult to ascertain how much of the property is comprised of them. She would appreciate being able to sell excess apples as the community cannot consume them all.

Councillor Kipp noted that the BC Building Code allots square footage for many facets of building a home; perhaps the Zoning Bylaw should allocate the amount of garden space within Nanaimo.

Ms. Michaelis stated that the Co-Housing community consists of 25 lots; if they all cultivated food to sell there would likely be more than 600m^2 of garden space.

Mr. Tucker noted that Agricultural Zoning allows for agricultural uses with no limitation, the urban food garden restriction only applies to selling food; there is no restriction on growing food for personal consumption. Staff is cautious about introducing the commercial element of growing food as there is not a lot of precedence to draw upon.

Councillor Sherry asked if a strata council governs the Co-Housing community.

Ms. Michaelis confirmed that the Co-Housing council consists of all the residents and the meetings are bi-weekly.

Councillor Sherry suggested the strata council discuss allocating a portion of each property for gardens.

Ms. Michaelis believes urban food gardens are a great idea as people would be encouraged to be less wasteful and to value what they can grow on their land. Reiterated her appreciation of the bylaw.

Mr. Ian Gartshore, 353 Seventh Street – In Favour

- Believes the size of an urban food garden should be determined as a percentage of the property. If the bylaw uses the size of a property as the primary condition for the permitted size of a building then it should do the same for garden space. Communication and consultation between neighbours is important; if traffic generation is higher during peak selling times, neighbours should be able to work it out between themselves and not be dependent upon Staff and Council to govern them. Neighbourhoods need to be responsible for changes within their community.
- Believes it may be difficult for Staff to monitor which properties are growing food for consumption and which properties are growing food for commercial use; there may be a bit more flexibility required in the bylaw.

Councillor Pattje noted that the Harewood community was anxious to complete a Neighbourhood Plan and asked the speaker why that undertaking is stalling.

Mr. Gartshore noted that the South End Neighbourhood Association has done excellent work with their Neighbourhood Plan; he would like the same to happen for the Harewood community.

Councillor Pattje asked Staff if the size restriction could be calculated as a percentage of the property versus 600m^2.

Mr. Tucker noted there likely is value in basing restrictions on lot size versus a finite area; however, Staff was concerned about traffic generation and scale. Staff would like to see how the urban food gardens develop over the first few years and would then make adjustments, if needed. Basing the restrictions on percentage of lot is something for Council to consider when the bylaw returns for Third Reading.

Councillor Sherry noted garage sales generate a marked increase in traffic with no bylaw intervention.

Mr. Rawel Parmar, 2353 Leighton Road – In Favour

- In support of the height increase from 8.25m to 9m for residential homes.

Mr. Gord Fuller, 604 Nicol Street – In Favour

- Speaking on behalf of the South End Community Association, of which he is Vice Chair, and commended Staff for the proposed bylaw and its foresight. Thanked Mr. Stewart for attending many community meetings to discuss and further explain the proposed changes.
- Believes 600m^2 is a sufficient size and does not think all citizens will endeavour to create commercial gardens, but agrees that a percentage-based restriction for larger lots could be beneficial.

- If the percentage-based restriction were applied to smaller lots it could equate in scaling down the permitted garden to much lower than 600m^2. Does not believe traffic will be increased in a way that would be intrusive.

Ms. Vita Turrock, 6245 Blueback Road – In Favour

- Lives in a strata town house and is currently growing a vertical garden. Concerned about the size restriction of 600m^2. She is considering moving to a larger lot and simplifying by building a very small home. If she bought a property that was .25 to .50 of an acre, she could easily grow a garden much larger than 600m^2. Asked if the restriction is based on traffic concerns only.

Mr. Tucker noted traffic concerns are a factor. This is a new use for the Zoning Bylaw and the intent is not to convert residential neighbourhoods into agricultural neighbourhoods; however, Staff would like to encourage people to grow food. The 600m^2 restriction was created through the public process and was the recommended size.

Mayor Ruttan noted that this is a new initiative and it would likely become clear where adjustments or clarifications are needed.

Mr. Dan Brady, 2314 Arbot Road - Opposed

- Mr. Brady's presentation is attached as a part of "Attachment A – Submissions for Bylaw No. 4500".
- Noted his presentation is in regards to the potential for the Howard Johnson site and not related to City Hall Annex development.
- Requested a Comprehensive Development Zone be created for the property, which would recognize the current permitted uses as well as potential for comprehensive development of the site in coordination with adjacent sites.

Councillor Sherry asked Staff for confirmation regarding whether or not Maffeo Sutton Park is zoned Comprehensive Development (CD).

Mr. Tucker confirmed that Council adopted the CD Zone for the Maffeo Sutton property in relation to the hotel proposal and the conference centre. The zone has been rolled into the new Zoning Bylaw until other direction is provided by Council.

Councillor Sherry noted to the speaker that it is his belief that the Howard Johnson property should be developed as a CD Zone in the future; however, the cost of developing the comprehensive plans should not be the responsibility of the City but rather that of the developer.

Mr. Brady noted that money was available in the past through the Downtown Nanaimo Partnership and a design charette was intended, which was to include stakeholders and the City. The design charette never took place.

Councillor Pattje asked Staff for clarification on the process required to attain a CD Zone on the Howard Johnson property.

Mr. Tucker noted that CD Zones are applied to specific sites in response to rezoning applications where the combination of uses on a site are not addressed by a bylaw that is of general application. If the subject property does not fit comfortably into any of the existing zones, a special CD Zone is created for that site.

All existing CD Zoned property in the city has been rolled into the proposed Zoning Bylaw; all of those zones were attained through the public process and adopted by Council. Agrees the subject property is appropriate for a CD Zone; a rezoning application would need to be submitted.

Councillor Holdom informed the speaker that the rezoning application process would need to be undertaken given the existing zoning on the subject property.

Mr. Brady noted he would have to apply for a rezoning to attain the CD Zone but he would also need to apply to retrieve height and density permissions that he currently has. Does not believe it is fair to be required to go through the rezoning process; they currently have the height and density they require and he does not feel they were properly consulted regarding the new Zoning Bylaw process.

Councillor Holdom agreed that the potential and value of the subject property is important and deserves a design charette and a CD Zone, it would require a Public Hearing and a CD Zone application.

Mr. Brady noted that existing permitted uses would be reduced by the proposed bylaw.

Councillor Holdom asked for clarification regarding permitted height under existing zoning.

Mr. Brady noted that under existing zoning calculations 21 storeys are permitted on the site; although the City and the neighbourhood would need to be consulted. Does not believe it is fair that permitted height, density and uses would be reduced through the proposed bylaw.

Councillor Holdom asked Staff for clarification regarding the proposed bylaw and how dramatically it affects the subject property.

Mr. Tucker noted when the Downtown Zoning was adopted a six-storey height maximum was established for all properties, except for areas where additional height was provided through a rezoning (e.g. Port Place Mall). The subject site and the south end of Nanaimo maintained the C-11 Zone status and were not rezoned as part of the Downtown Zones in 2005. The Zoning Bylaw review applied the same principle that was applied to the rest of the downtown; a six-storey height limit that needed application in order to increase. Some of the uses that were removed include 'Bingo Hall' and "Car Wash". This is a gateway site going into the downtown; Staff believes it would be greatly underutilized if it were to be a car wash or bingo hall. City Staff would like to encourage a higher level of development on the site.

Councillor Holdom noted if the existing zoning remained or if the permitted uses of the proposed bylaw were changed a Public Hearing would be required, as the density and use would be altered. Asked Staff if there is any way to accommodate the subject property by designating it for a higher purpose of development.

Mr. Tucker stated an applicant could apply to rezone a property for any change of use and go through the public process. Noted that some upzones have been added to the subject property in the proposed bylaw including "Live / Work Studio", "Liquor Store", as the existing liquor store is not a permitted use, "Production Studio" and "Public Market".

Mayor Ruttan asked for clarification on whether or not existing uses are proposed to be removed from the subject property; he was under the impression previous entitlement to existing uses would be continued if the proposed bylaw were adopted.

Mr. Tucker noted that this property was not included when the Downtown Zoning was adopted and therefore retained the C-11 Zone. The C-11 Zone was the zone that applied to all of downtown prior to the Downtown Zoning, which created separate precincts with different uses in each precinct. Staff applied the same principle on this property when preparing the proposed bylaw.

Mayor Ruttan noted that subject property has great potential for future development and asked Staff to confirm if the proposed bylaw will restrict the current permitted height.

Mr. Tucker confirmed that the proposed bylaw would restrict the current permitted height on the subject property to six storeys.

Councillor Bestwick noted he is not comfortable with down zoning the subject property due to the existing potential of the site. Believes it is imperative to take into consideration the owners' position on the opportunity to develop their property, which requires consultation that may not have taken place for this subject property. Does not believe the property should be down zoned when adjacent properties are zoned CD3. Asked Staff how the DT4 Zone differs from the DT12 Zone.

Mr. Tucker stated the DT4 Zone was part of the Downtown Zoning, which was adopted in 2005, and was known as the C-27 Terminal Avenue Zone. It is unchanged since that time and was originated from the Downtown Plan. "It provides predominately for mixed-use, office and retail area with three to six storey street-wall related buildings intended to support the unique role as a gateway to the downtown core". Both the DT4 Zone and the proposed DT12 Zone can support a height of six storeys.

Councillor Bestwick noted that the DT12 Zone, previously the C-11 Zone, had a permitted height of 20 storeys but the DT4 Zone did not.

Mr. Tucker noted that the DT4 Zone had the same permitted height until 2005 when the Downtown Zoning was adopted.

Councillor Bestwick noted his continued discomfort with rezoning the subject property to DT12 as he does not believe it makes sense.

Councillor Kipp asked the speaker what the main concerns regarding the subject property and the proposed Zoning Bylaw are.

Mr. Brady stated he does not believe the reduction of height and density is fair.

Councillor Sherry asked what uses are permitted under the CD3 Zone.

Mr. Tucker noted that the CD3 Zone was adopted by Council as part of the conference centre proposal; it is site-specific to that property and the uses include "Live / Work Studio", "Multiple Family", "Office", "Parking Lot", "Parkade" and "Retail".

Councillor Sherry asked if any Conditions of Use were included when the CD3 Zone was applied to the adjacent property.

Mr. Tucker noted that the City of Nanaimo is the landowner of the CD3 Zoned property; Council can apply Conditions of Use upon the sale of the property.

Councillor Sherry asked if a Public Hearing would be required if Council wished to rezone the CD3 Zoned site.

Mr. Tucker noted if Council directed Staff to rezone the CD3 Zoned property it would need to go through the public process, as all rezonings are required to do so.

Councillor Sherry asked how much notice would need to be given in order to rezone the CD3 Zoned property.

Mr. Tucker stated that the required notification process would apply, including newspaper advertising regarding the public process as well as whether or not it was subject to sale, as a disposition of City property.

Councillor Johnstone noted she is grateful that Staff agrees there is potential for comprehensive development of the Howard Johnson property. Asked the speaker how big the property is.

Mr. Brady noted the entire site encompasses 7.5 acres; long-term plans include purchasing additional, neighbouring lots.

Councillor Johnstone asked if the site is one of the largest in Nanaimo's downtown that is not fully developed.

Mr. Tucker confirmed the site is one of the largest in the downtown area.

Councillor Pattje asked Staff for clarification regarding the proposed permitted uses on the subject property and why uses like "Car Repair", "Custom Work Shop", "Funeral Parlour", and "Pawn Shop" are being added to a site such as this.

Mr. Tucker noted Staff was trying to be fair when considering the uses that were removed and those that were proposed to be added; the speaker is of the view that the property has been down zoned; however, Staff tried to include as many uses from the C-11 Zone as possible for this important site.

Councillor Unger asked Staff if the subject property could be deleted from the proposed Zoning Bylaw and if that change would require an additional Public Hearing.

Mr. Tucker confirmed if Council wished to change the density or use on the site, the Public Hearing process would need to occur again. The DT12 Zoning cannot be deleted, as the site would then be the only un-zoned property in Nanaimo; the adoption of the new bylaw would result in the previous bylaw being repealed.

Councillor Unger noted it seems we are rezoning properties and then asking owners to apply for a rezoning application for uses they already have; it is an inconvenience and he does not yet see any reason to do so.

Mr. Tucker stated the range of uses the speaker had mentioned do not fit within any existing zone; therefore, there is an opportunity to work with the City on a CD Zone, which would involve public process, the neighbourhood, the Downtown Business Association and would go through the process required for complex rezonings. Staff encourages the speaker to make an application. This was a review of all existing zones, if Staff were to revert to the existing zones it would be contrary to one of the purposes of the zoning review, which was to clean up the zoning. A specific rezoning application for the subject property is the best option by which Council can consider the wishes of the landowner.

Councillor Unger asked if the permitted height and density for the subject property would be reduced through the proposed Zoning Bylaw.

Mr. Tucker noted that the maximum height permitted under the C-11 Zone is determined by "multiplying the distance from the centre line of the street upon which the building fronts to the front line of the building by two". One of the goals of the proposed Zoning Bylaw is to make the bylaw more user-friendly; this calculation is unclear whereas a six-storey restriction is clear and applies the same principle that was applied to the rest of downtown.

Councillor Unger noted the subject property is being reduced from 21 storeys to 6 storeys and the owner will need to apply for the height he currently has.

Mr. Tucker stated that we do not have a proposal for a specific building on the subject property; 21 storeys is a theoretical number and Staff is unsure if it could be achieved.

Councillor Holdom noted if a large, six-storey building were proposed on the subject property the owner may be able to achieve the same density of a taller, narrower building; therefore, it is not certain that density is being reduced through the proposed Zoning Bylaw. A CD Zone application would guarantee the type of consultation the speaker feels he has not had. Asked Staff if there is a way to look at both properties on either side of the Pearson Street Bridge to determine which zoning is appropriate and undertake changing the zones in a timely manner after the proposed Zoning Bylaw is approved; otherwise a new Public Hearing will be required. Therefore, it would be City initiative and a City expense.

Mr. Tucker confirmed the City could host a design charette in a timely manner; the CD3 Zone is in response to a specific development initiative by Council, if Mr. Brady has a specific development proposal it would most certainly speed the process up. If there is not a specific proposal, Staff cannot comment as to timelines.

Councillor Sherry stated that Motions cannot be made at a Public Hearing; the next opportunity Council has to deal with this issue is at the Council meeting of 2011-JUL-11. If Council does make changes to land use or density, it would have to go back to a Public Hearing.

Councillor Bestwick asked for clarification on permitted height in the CD3 Zone.

Mr. Tucker noted that the height permitted in the CD3 Zone is 85.4m, including the parkade.

Councillor Unger stated there is no rush to adopt the proposed Zoning Bylaw; believes it needs to be taken back for further review by Council and begin again with a new Public Hearing as it would be better to do that than to make an error and regret it later.

Mayor Ruttan noted there seems to be some angst on the part of Council regarding this subject property; asked if there are any alternatives or recommendations Staff could make.

Mr. Tucker stated Staff is uncomfortable negotiating zoning on an individual site in the midst of a Public Hearing. Following adoption of the proposed Zoning Bylaw, Staff recommends Council direct Staff to bring forward an amending bylaw for this particular site to reinstate the C-11 Zone, ensuring no up or down zoning occurs. That would require the Howard Johnson site be brought back to Public Hearing as a site-specific rezoning. The C-11 Zone would then, in effect, become a CD Zone, as it would apply to this one site only.

Councillor Pattje asked if that would not leave the door open for other landowners to approach Council with the same request.

Mr. Tucker noted that, theoretically, it could leave the door open for requests from other landowners; however, this Public Hearing is in relation to the proposed Zoning Bylaw.

Some of the goals of the new Zoning Bylaw were to simplify the bylaw by reducing the number of zones and making it more user-friendly. If some properties were to retain their current zoning it would result in a variety of archaic zones in the midst of the new bylaw and in some ways would undermine the public process, which has resulted in the new bylaw.

Ms. Andrea Blakeman, NOCA – Opposed

- Ms. Blakeman's presentation is attached as a part of "Attachment A – Submissions for Bylaw No. 4500".

Mr. Dirk Becker, 7560 Fernmar Road, Lantzville – In Favour, in Principle

- Thanked Council and Staff for their hard work. Speaking to urban farming from a provincial perspective, we need to move forward in Nanaimo as quickly as possible.

Councillor Sherry asked Staff where 'urban farming' is referenced in the proposed Zoning Bylaw.

Mr. Tucker noted that "urban food gardens" are a general regulation that is applied across the bylaw and is limited at a size of $600m^2$.

Councillor Sherry noted his concern regarding the speaker's comparison of provincial regulations versus municipal regulations.

Mr. Becker noted he believes we need to look at what we are doing in Nanaimo in a greater context; how many people are aware that 95% of our food is imported?

Mayor Ruttan cautioned the speaker that Council cannot discuss any potential ligation issues and asked the speaker to deal directly with Bylaw No. 4500.

Mr. Becker confirmed he does not intend to speak about potential litigation issues. His interests revolve around agriculture in general, specifically in Nanaimo. BC is only 35% food-sufficient. Believes it should be termed "urban farming" not "urban gardening" as it is an injustice to the spirit and intent of a bylaw that would support agriculture.

Mayor Ruttan asked the speaker to direct his comments to Bylaw No. 4500 in the Nanaimo municipality.

Mr. Becker noted that the vast majority of food going to Vancouver farmer markets is produced on urban properties as small as 33 feet. If 95% of our food is imported, we need to move more quickly in order to not just allow and permit urban farming but to encourage and support it. If a restriction of $600m^2$ is applied, the same should be applied to how much of a lake a sea doo can utilize.

Councillor Bestwick noted the speaker is clearly passionate about the issue; understands the speaker would prefer the terminology indicate a broader scope than a 'garden'. Believes the intent of the bylaw is all-encompassing, including small to very large lots; Staff and Council feel there may be an opportunity to expand the notion by restriction through a percentage of the property or by footprint.

It is a work in progress and it is a great step forward that is going in the right direction. In order for Council to move forward from this starting point we need to alter, grow, amend and react to public and Staff input. He respects what the speaker has said.

Mr. Becker noted his intention is to highlight the importance of the leap that has been taken by Council and how important it is to move forward as quickly as possible.

Councillor Pattje asked the speaker if he believed Council is on the right track with urban gardening.

Mr. Becker confirmed he believes Council is on the right track with urban gardening.

Councillor Kipp noted he agrees this is a step forward and that terminology is important to the issue. Asked the speaker how he believes size restrictions should be assessed.

Mr. Becker stated he believes anyone should be permitted to cover any and all of his or her lot with food, whether it is for personal consumption or for sale. We only have two days of fresh food supply in our grocery stores; as leaders and citizens we have a responsibility to move in this direction.

Mr. Mike Plavetic, 4525 Wellington Road – In Favour

- Concerned with the change that affects property at 1740 Dufferin Crescent, which he is a co-owner of. The property is within the Hospital Urban Node and is currently zoned RM-5, which permits 'private hospitals'. If the proposed Zoning Bylaw is adopted, the property would be zoned R8, which would eliminate his ability to build a private hospital on the property as it would no longer be a permitted use. Staff is not supportive of including hospitals in the R8 Zone but would be generally supportive a rezoning application to include the property in the CC5 Zone, which is the only zone that would allow hospitals as a permitted use. While it is encouraging that Staff would support a rezoning application, he would still have to go through the public process for a use which is currently permitted on his property. The costs would be significant and the risk of being denied is concerning. Believes his property is being down zoned and it could hamper his ability to sell his property.

Mr. Tucker noted that due to a recent court case decided in BC, we are unable to distinguish between private and public hospitals. Hospitals are permitted in the CC5 Zone and in the CS1 Zone; the recommendation to remove it from the multiple family zone is related to the recent rezoning application for Traveller's Lodge on Northfield Road, where the introduction of a hospital into that neighbourhood caused a lot of concern. The use also has the potential to generate a lot of traffic; therefore, Staff feels a hospital use within a multiple family setting should be decided by Council through a rezoning process.

Mr. Chad Henderson, #212 – 347 Seventh Street – In Favour

- Owns the Green Store at 256 Wallace Street. Thanked Council and Staff for including urban food gardens in the proposed Zoning Bylaw; it is a sensitive and important issue to the community.
- Glad to hear Staff will monitor and adapt, if necessary, the use of urban food gardens. Suggested the 600m^2 size restriction be applied to lots less than 1,000m^2 and a percentage-based restriction be applied to lots over 1,000m^2. Believes the bylaw, as written, would ensure traffic and noise be controlled.

- As a storeowner, he tries to buy fresh produce and it is difficult. Does not believe a lot of people will engage in growing food for sales but it is a very important issue to those who want to install urban food gardens on their property.
- The OCP states more green space would be beneficial to the community; urban food gardens will add free green space to the city. Does not see a need for restriction on size.
- Believes mushrooms can be cultivated without excessive smell, this could be relooked at.
- Used to have a home based business; five vehicle trips per day for a massage therapist is reasonable as they can charge much more than what could be charged for vegetables. Gate sales are a positive and beneficial thing for any community.

Mr. Jim Routledge, 5858 Shadow Mountain Road – In Favour

- Speaking mainly to the residential development section of the proposed Zoning Bylaw; believes it serves the purpose of the OCP by putting more value in the land, offering opportunities for developers and offering a revenue to the City through added density.
- Smaller lot provisions, reduced setbacks, height restrictions, duplex allowances and carriage house features are very innovative; complimented the initiative of Staff, and Mr. Stewart in particular, for their modern thinking.
- Attended three of the four open houses and has followed the development of the bylaw, believes the smaller lot size is a good idea with benefits; however, encouraged Council to continue to look at the issue of lot size in the future.

Councillor Holdom noted the planNanaimo Action Committee did debate the issue of lot size and they recommended the smaller lot size. Some neighbourhoods in the city have a problem with the smaller lot size; sometimes we have to allow for diversity. Noted the speaker had spoken in favour of the increased height restriction on residential buildings; asked the speaker if he sees the need to consider exceptions for sloping areas that face views that could be blocked by homes that are somewhat taller than the current bylaw allows.

Mr. Routledge stated he believes the height increase for residential buildings is reasonable; the difference between 8.25m and 9m from a distance of 500 yards is not detrimental, if it were to affect quality of life is a judgement call. Being able to offer a product that attracts people to Nanaimo and increases the function of the city is of great benefit.

Mr. Fred Taylor, 204 Emery Way – Opposed

- Mr. Taylor's presentation is attached as a part of "Attachment A – Submissions for Bylaw No. 4500".
- Suggested that 'garden' refers to urban and 'farming' refers to rural. As some adjacent municipalities expand, a garden may have to be converted to a farm, which could influence size.
- Noted to Councillor Holdom that some building schemes have tried to create an even profile down a slope so no views are impacted.

Councillor Holdom noted that the RS1a Zone often protect views by reducing the allowable height for residential dwellings. Believes the speaker made a good case for other communities allowing higher fence heights, especially in the back and side yards of homes. Asked the speaker why he believes the existing higher fence heights are appropriate.

Mr. Taylor believes that appropriate fence height is needed to make it more difficult to climb, when people can see what is in your yard it results in disturbance and possible theft.

Mr. Ivan Plavetic, 130 Canterbury Crescent - Opposed

- Speaking as a co-owner of 1740 Dufferin Crescent, he has received an offer on the property due to the current zoning permitting a hospital use. The proposed bylaw would result in a down zoning of his property and a possible loss of sale. Suggested Council not move the bylaw forward unless this property can be addressed; other speakers have noted concerns about down zoning this evening.
- As a residential builder, he has built in Nanaimo for over 40 years and has built on over 200 lots. Supports the idea of a smaller lot size; 450m^2 can support a decent home that would be more affordable.
- Believes the proposed Zoning Bylaw may not be ready to go forward.

Councillor Sherry asked the speaker about the offer on the property at 1740 Dufferin Crescent.

Mr. Plavetic confirmed he has an offer on the property; however, it is not an acceptable offer.

Councillor Unger suggested the speaker prepare an application for the use of hospital on the property prior to the bylaw being adopted.

Mr. Plavetic noted he does not believe the timeframe would warrant an application. The offer has not been accepted. Reiterated his concern that his property will be down zoned if the bylaw is adopted. Asked Council what it is prepared to do for concerned property owners who are being treated unfairly.

Councillor Unger noted that decisions cannot be made this evening; Council is here to listen to the public regarding the proposed Zoning Bylaw.

Mr. Plavetic stated that any traffic concerns are baseless as it is a Corridor.

Mr. Lawrence Reiper, 990 Campbell Street - Opposed

- Mr. Reiper's presentation is attached as a part of "Attachment A – Submissions for Bylaw No. 4500".

Councillor Holdom noted he would be bringing forward amendments to the proposed Zoning Bylaw that will not affect density or land use, which can be considered by Council at Third Reading without interfering with the process of the approval of the bylaw. These amendments will include height for residential homes and fence heights.

Councillor Sherry asked Staff, in light of the submissions at the Public Hearing, if it is more appropriate to adjourn the Hearing due to the legal implications of continued discussion.

Mr. Tucker noted if the proposed amendments are in regard to development standards or Conditions of Use, and are in response to submissions at the Public Hearing, Council could consider those amendments and the bylaw could proceed. If the changes Council wishes to make affect use or density, which are the fundamentals of the bylaw, it would require a continuation of the Hearing. In regards to specific landowner complaints, he suggested proceeding with the bylaw but to also direct Staff to bring forward an amending bylaw

immediately. Staff would like to prevent a period of uncertainty for the residents and the development community regarding confusion over which bylaw they should operate under.

If the amendments are Conditions of Use it does not create the need for a continued Public Hearing, if the amendment is something like the Howard Johnson property it would necessitate continuing the Hearing, or a new site-specific Public Hearing, which is Staff's recommendation.

Councillor Holdom asked Staff if exempting a residential area from the application of the lot size would be a minor amendment.

Mr. Tucker confirmed that exempting a residential area from lot size restrictions would necessitate a new Public Hearing. In single family zones, the calculation for density includes the lot size.

Ms. Annette Roulick, #11 - 1601 Bowen Road – Opposed

- Reminded Council of the strong opposition they received regarding 1406 Bowen Road. The current zoning allows only 5 people, the OCP proposes 10 people, and the COR2 Zone allows up to 40 people. She is not in favour of this change to the existing Zoning Bylaw.

There were 12 written and 15 verbal submissions with regard to Zoning Bylaw No. 4500.

MOVED by Councillor Sherry, SECONDED by Councillor Holdom that the meeting adjourn at 9:47 pm.

CARRIED

Certified Correct:

Bill Corsan
Manager, Planning Section
Community Safety & Development

/pm
Council: 2011-JUL-11
G:Devplan/Files/Admin/0575/2011/Minutes/2011Jun23 PH Minutes.docx

Attachment A

Submissions

For

Bylaw No. 4500

(Proposed New Zoning Bylaw)

Howard Johnson HOTEL
HARBOURSIDE • NANAIMO

RECEIVED
JUN 22 2011
CITY OF NANAIMO
DEVELOPMENT SERVICES

Mayor John Ruttan and Members of Council
City of Nanaimo
455 Wallace Street
Nanaimo, BC V9R 5J6

Re: Bylaw 4500 - Downzoning of 1 Terminal Avenue Nanaimo, BC - Howard Johnson Harbourside

Your Worship Mayor Ruttan and Councillors,

We are writing to express our significant and serious concerns regarding the City's proposal to change the terms of the zoning for our property located at 1 Terminal Avenue Nanaimo, BC - the Howard Johnson Harbourside property.

As you know our property is one of the few remaining large parcels of developable land in the downtown: it is a unique keystone site, strategically located at the north entrance to downtown, and which holds exceptional potential for rejuvenation and revitalization of the downtown.

We have four serious concerns which we wish to address in detail:

1. The negative impacts of the downzoning include reduction of the development potential of our property and subsequent dramatic loss of property value;
2. Our attempts to fully discuss the impacts of, and alternatives to, the proposed zoning with City staff have been inadequate, incomplete and unsatisfactory;
3. The proposed downzoning runs counter to the revitalization interests of the downtown; and
4. Our site warrants a unique approach and designation as a comprehensive development zone.

Impacts of the proposed downzoning

Loss of development potential and property value

The changes proposed to the zoning of our property will have a dramatic impact on the development potential and value of our property. Specifically, the present allowable density is limited by the height of a building constructed on the site. Under the current zoning the height is determined by: "... multiplying the distance from the centre line of the street upon which the building fronts to the front line of the building by 2." (City of Nanaimo Zoning Bylaw 4000) There is no floor area ratio limit under the existing zoning, except for residential uses, and no specific height limit.

The proposed bylaw will limit our site to a 19.8 meter building height and a floor area ratio of 1.00 (with some bonusing potential). The combined impact of the 19.8 and the 1.00 floor space ratio will be dramatic and will seriously and radically downzone the development potential of our site.

Our site is unique in the downtown as it appears to be the only large C11 zoned site proposed for the DT12 zone. The large size of our property allows buildings to be set back from the property line therefore permitting significant building heights. It is therefore the only DT12 site that is dramatically impacted by the new lower floor area ratio and height limits. The other large properties proposed for DT12 zoning are in the Southend near the water and are at present zoned industrial. There is also an area of DT12 proposed along Nicol Street in the Southend but these are mostly small properties and thus the height limit will have little affect.

HOWARD JOHNSON HARBOURSIDE HOTEL
1 Terminal Avenue • Nanaimo • British Columbia • Canada • V9R 5R4
Phone (250) 753-2241 • Fax (250) 753-6522 • Toll Free 1-800-663-7322

We cannot help but feel our property is unfairly negatively impacted by the downzoning proposed by the new bylaw and that perhaps the size of our property and the potential impact of the DT12 zone restrictions were overlooked in the process.

The potential affect of this downzoning could be to sterilize our site to such an extent that the property is no longer a viable developable site. Our site could potentially remain undeveloped for decades. Is this really what the City wants to happen?

Removal of significant permitted uses on the property

The proposed zoning will reduce the permitted uses on our property. Of particular concern is the loss of lounge and entertainment uses. These uses have been permitted on our site for decades and their removal would result in a significant loss of value and potential. Of less concern but nonetheless distressing is the removal of the bingo hall, car wash, fast food restaurants and gasoline station uses.

We find the removal of valuable permitted uses without warning, discussion or consultation disturbing and distressing.

Lack of consultation with property owners

We are very concerned with the lack of direct contact with the property owners regarding the proposed downzoning. We were unaware that the City was considering significant changes to the zoning of our site until our staff saw a notice on the City website in March of this year. Little did we know at the time the review of the City's Zoning Bylaw had been underway since 2009. It is reasonable to expect some contact would be made with property owners early in the process so detailed information would be communicated, questions asked and concerns expressed.

As soon as we became aware of the proposed changes contact was made with City planning staff. In March we met with City staff and attempted to have a number of questions answered. After three attempts to get answers to our questions in early March we received an email response from planning staff with only superficial information and the promised further discussion regarding our concerns with senior staff never materialized. Had there been an opportunity for meaningful direct contact and discussion perhaps we could have avoided getting to this point.

It is not unreasonable to expect that such dramatic changes to the zoning of our property would warrant individual attention and analysis by City staff.

We are also concerned that our property and associated businesses, which are significant contributors to the Downtown Nanaimo Business Improvement Area and previously the Downtown Nanaimo Partnership, seem to be marginalized in this process. Rather we would like and would hope our property to be recognized as a keystone in the redevelopment and revitalization of the Downtown. We would welcome the opportunity to work in partnership with City Council and staff to ensure our site is developed to its full potential for the benefit of the community and the downtown.

Proposed zoning runs counter to the interests of the downtown

The proposed zoning effectively downzones the property at a time when the downtown is looking for new development such as a hotel, new civic uses, new office space and new residents. The proposed narrowing of permitted uses and reduced density is not in the interests of the downtown as a whole. With the efforts and public funds invested in the downtown in the recent past it seems inconceivable that the Council and staff would want to reduce the opportunity for new development and investment in the downtown.

The proposed zoning runs counter to the interests of the downtown, taxpayers and the city as a whole.

Our site warrants a unique approach and designation as a comprehensive development zone.

The Harbourside site is special and unique in the city by virtue of its prominent location, size, topography, proximity to the Millstone River and harbour, history, and proximity to the Convention Centre and businesses.

It would be foolhardy and misguided for the City to treat the Harbourside site in the same way it would treat a small residential lot located on Nicol Street and yet this is what is proposed in the new zoning bylaw. To be clear the DT12 zone proposed for our property is the same one proposed for the stretch of Nicol Street at the south end of the downtown. A more appropriate approach to zoning for the Harbourside site would be to develop a comprehensive development zone which responds to the unique qualities and opportunities of the site.

The Harbourside site has the potential to be developed in such a way as to connect with Maffeo Sutton Park and the waterfront to draw residents and tourists up the Millstone River and ultimately to connect the waterfront with Bowen Park. This is an exciting opportunity that should be explored and encouraged. Appropriate development of our site could be the catalyst for renewal of the northern gateway to the downtown and the restoration of the Millstone River estuary.

The significance of the Harbourside site for the future of downtown and the city can not be underestimated. This significance was recognized by the City and the Downtown Partnership when it recommended and committed to holding a charette for the property some time ago. Further, we have attached a copy of our proposal for the site which was submitted in response to the City of Nanaimo's request for Expressions of Interest to construct a new City Hall Annex. We enclose this in order to show those of you that were not afforded the opportunity to review it when it was originally submitted the type of comprehensive type of re-development that can take place on our site.

Because of the low lying topography of our site it is, in our opinion, a better site than the old arena property to develop for high residential towers; holding a charette would provide an opportunity to discuss the potential of the old arena site and our site and how their development can be complimentary.

We would fully support working with the city to discuss and develop a greater plan for our site that would include a much needed hotel, multi-use civic centre, recreational facilities, residential and commercial uses.

In light of the negative impacts the proposed downzoning will have on our property, the lack of meaningful consultation regarding the proposed zoning changes and the unique potential of our site, we request that the proposed downzoning of the Howard Johnson Harbourside property be reconsidered and that Council direct staff to develop a comprehensive development zone for the site which recognizes the current permitted uses and densities as well as the potential for comprehensive development of the site in coordination with adjacent sites and the City.

Sincerely,

per:

Brian Martin
Owner
Howard Johnson Harbourside Hotel

RE. Request for Expression of Interest No. 1051
City of Nanaimo
2020 Labieux Road
Nanaimo, B.C. V9T 6J9

ATTN: Kurtis Felker - Manager, Purchasing & Stores

Oakwood Park Estates LTD.
7th Floor - 1175 Douglas Street
Victoria, B.C. V8W 2E1
Phone (250) 704-4656 Fax (250) 704-4655

architects inc.

Oakwood Park Estates Ltd.

July 22, 2010

Jared Felker, Manager, Purchasing & Stores

City of Nanaimo

2020 Labieux Road

Nanaimo

V9T 6J9

Re: **Request for Expression of Interest No. 1051**

On behalf of Oakwood Park Estates I submit this Expression of Interest to provide a new replacement for the existing City Hall Annex as described in **Request for Expression of Interest No. 1051.**

OAKWOOD PARK ESTATES LTD.
Oakwood Park Estates Ltd, is a BC construction, development and real estate holding company owned by myself, Brian Martin. I am also an owner of 490892 B.C. Ltd which owns the Howard Johnson Harbourside Hotel located at # 1 Terminal Ave, Nanaimo.

THE PROPOSED SITE
The Howard Johnson Hotel sits on approximately 6 acres (2.4 hectares) and the owners have acquired an additional 1 acre of land adjacent to the hotel site, for a total of 7 acres. The site, which makes up a portion of Future Study Site # 1 referred to in the City of Nanaimo's Downtown Plan, is located within the area defined as the Downtown Core and is part of BIA 1. The site connects directly with the areas referred to in the Downtown Plan as Northgate and Waterfront. The proponent has comprehensive plans for the entire site. This Expression of Interest is timely as it brings forth the opportunity for the City of Nanaimo to share in an exciting vision of transformation of a prominent but underutilized property.

Oakwood Park Estates Ltd.
Registered Office
7th Floor – 1175 Douglas Street
Victoria, British Columbia, V8W 2E1
Phone: (250) 704-4656 Fax: (250) 704-4655

Oakwood Park Estates Ltd.

TWO POSSIBLE PHASES
This Expression of Interest is submitted as a two phase proposal.

PHASE 1
The first phase addresses your immediate concern of replacing the City Hall Annex with a new building of approximately 45,000 square feet. It is proposed that this building be located at a pivotal corner location, the intersection of Comox Road and Terminal Avenue North.

PHASE 2
The proposed design is configured to accommodate a future addition that would serve to bring all remaining municipal functions under one roof, resulting in a project that would make the Northgate entrance to downtown Nanaimo a central place in the city, and would link the heart of municipal services with the river's edge.

IDEAL LOCATION
A new city hall on this distinct corner would continue the transformation of downtown Nanaimo and would address a number of goals that are laid out in the City's Official Community Plan. The Nanaimo Downtown Plan says of this location that it "has a major future role situated at a major gateway entry to downtown".

This would not only be a functional building but will offer the citizens of Nanaimo another civic and cultural centre with views of our celebrated harbour and an invitation to step off the renowned Harbor Front Walkway to a revitalized Millstone River estuary and continue the scenic route up the Millstone River.

SYMBOLIC PRESENCE
I believe we could build an award worthy building within a landscaped green common, reflective pool and civic plaza connecting to the street. The topography is ideal to tier down towards the water to an outdoor amphitheatre with its backdrop of a rehabilitated Millstone River estuary.

The estuary itself could become a focal point with possibilities such as a dinghy tie up, model boat area and swimming lagoon among its uses. A rehabilitated estuary could serve as a continuation from Maffeo Sutton Park to a public shore walkway with tastefully designed "Granville Island" style oriented commercial space along the walkway.

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Victoria, British Columbia, V8W 2E1
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ENCLOSURES

We offer a number of enclosures to support our proposal:

- A plan of the site
- Plans of the new Annex which is the subject of the Expression of Interest
- A schematic of our proposed addition to the Annex that would be a new City Hall
- A colored rendering of the proposed City Hall (with both Phase 1 and 2) with the rehabilitated estuary and water park
- A schematic plan of the Howard Johnson redevelopment plans that include:
    - A new 200 room hotel with a residential component
    - Ample tiered and covered parking
    - Residential towers on the rear of the property
    - Multiplex arena location
    - Transportation hub with new bus depot
    - Site access and egress

Further to the General Technical Specifications of the Expression of Interest No.1051 we offer the following:

- Our proposed site is in the Downtown Core. We have always been a part of the city's Business Improvement Area (formerly BIA # 5680) and our taxes and our status as being part of downtown has been confirmed. Please refer to attached maps.
- We propose to build Phase 1 to provide the specific square footage required.
- This would be a reinforced concrete an steel structure, with in excess of 5,000 square feet of space at ground level (the Customer Service Centre), with remaining floor areas accessed by elevator from this level. Each floor would have washrooms and service space as required. The roof would be accessible and could serve as additional exterior space, providing a rooftop green area and patio.
- Loading (2 bays) would be at the lower level of the north side of the proposed below grade parking structure.
- As previously noted, in addition we can build in the capacity to add to the building at the City's request and timetable in the future.
- Stipulated seismic standards will be met or exceeded.
- The building proposed will have significant street level presence.
- The new building could also be designed to accommodate modern office requirements of a Health and Wellness Centre for employee use. (The Howard Johnson currently has a Fitness Centre as tenant and his lease may be transferable to the new annex if the City desired.)
- The building will meet requisite LEED standards (Gold or better).
- **We would enter into negotiations on a Lease to Own basis.**

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- The building with all required amenities would be ready for occupancy no later than two years from date of agreement with the City.
- The parking will be underground and / or covered tiered parking.
- The maintenance and operation costs can be determined upon design approval and will be standard for the industry.
- Finishing standards will be negotiable. (The city may opt to complete its own finishing).
- Confirmation is available (by existing Phase 1 and Phase 2 level environmental reports) that we have a clean, uncontaminated site.

ZONING

The site is zoned Core Area Commercial (C-11), therefore we meet all zoning criteria.

CONSULTATION

The proponent would be happy to converse and consult with all concerned (Downtown Nanaimo Partnership, The Heritage Commission, The Economic Development Commission, Parks and Recreation Commission, Vancouver Island Conference Centre Advisory Committee and of course Mayor, Council and the citizens of Nanaimo), for firstly a new City Hall and secondly the overall redevelopment of this strategic site.

LONG TERM VISION

We believe our proposal can address a number of civic issues beyond a City Hall annex and merits serious consideration by the City, especially as to how it would affect the continued positive evolution of downtown Nanaimo.

NEW HOTEL

A New City Hall would necessitate the demolition of our old hotel and construction of a new Four Star Hotel.

FUTURE RESIDENTIAL

New residential towers are envisioned at the rear of our property. A residential component is also included with the hotel. This will dramatically increase pedestrian travel in the downtown area, and may help alleviate having to use portions of Maffeo Sutton Park and the old Foundry and Arena sites for waterside residential towers.

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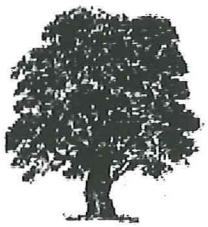

Oakwood Park Estates Ltd.

ARENA
The site also provides an ideal potential opportunity for a multiplex arena proponent to step forward to make this truly a civic centre.

EXTEND PUBLIC ACCESS TO WATERWAYS
As aforementioned, a restored Millstone Estuary would add a beautiful dimension to downtown Nanaimo's livability and tourism status.

I hope that the City of Nanaimo will join our vision for a New City Hall as the catalyst for a spectacular redevelopment of this strategic site. I look forward to your response and an opportunity to further discuss details of our proposal.

Yours Truly,

Brian Martin

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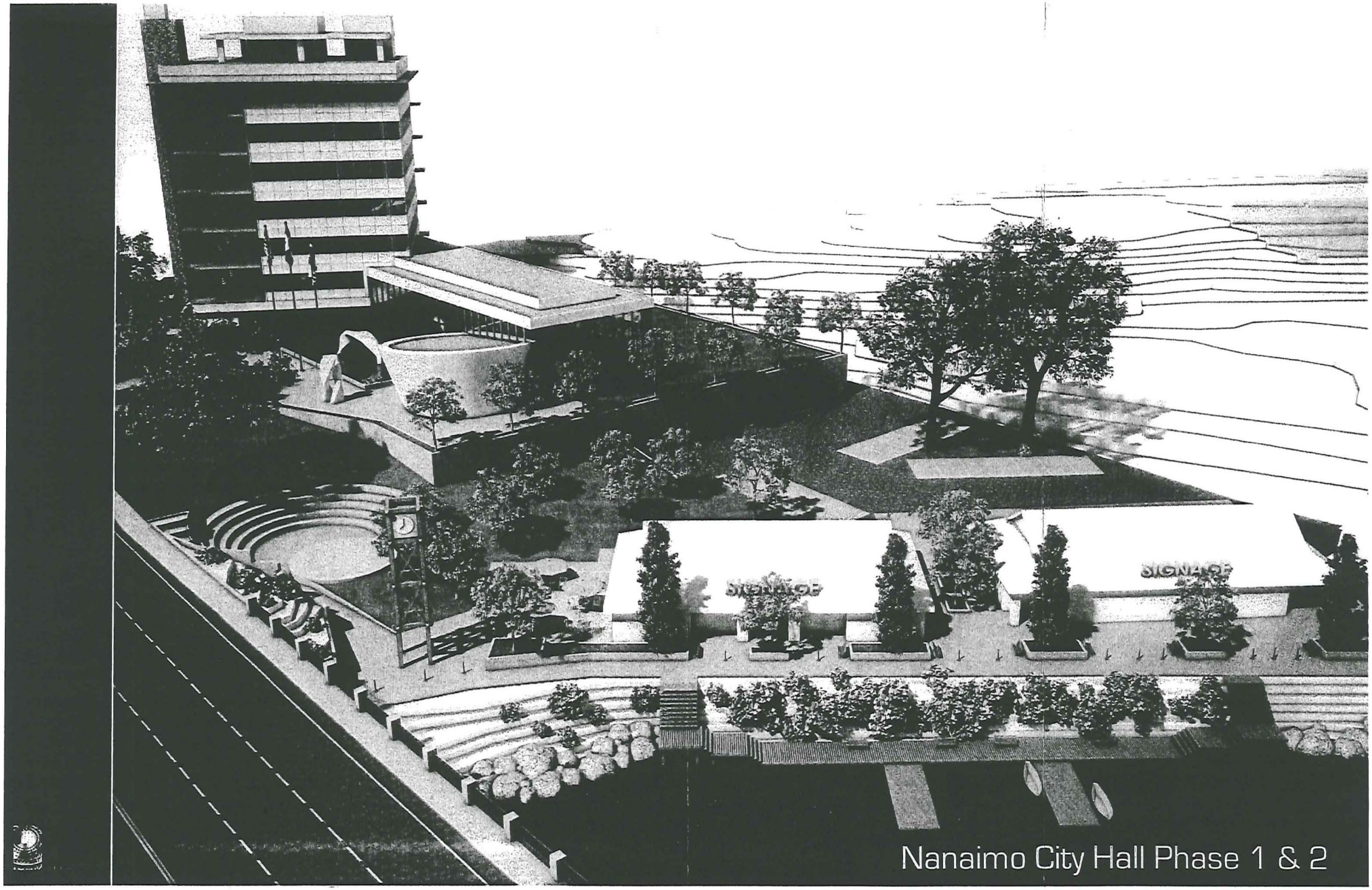
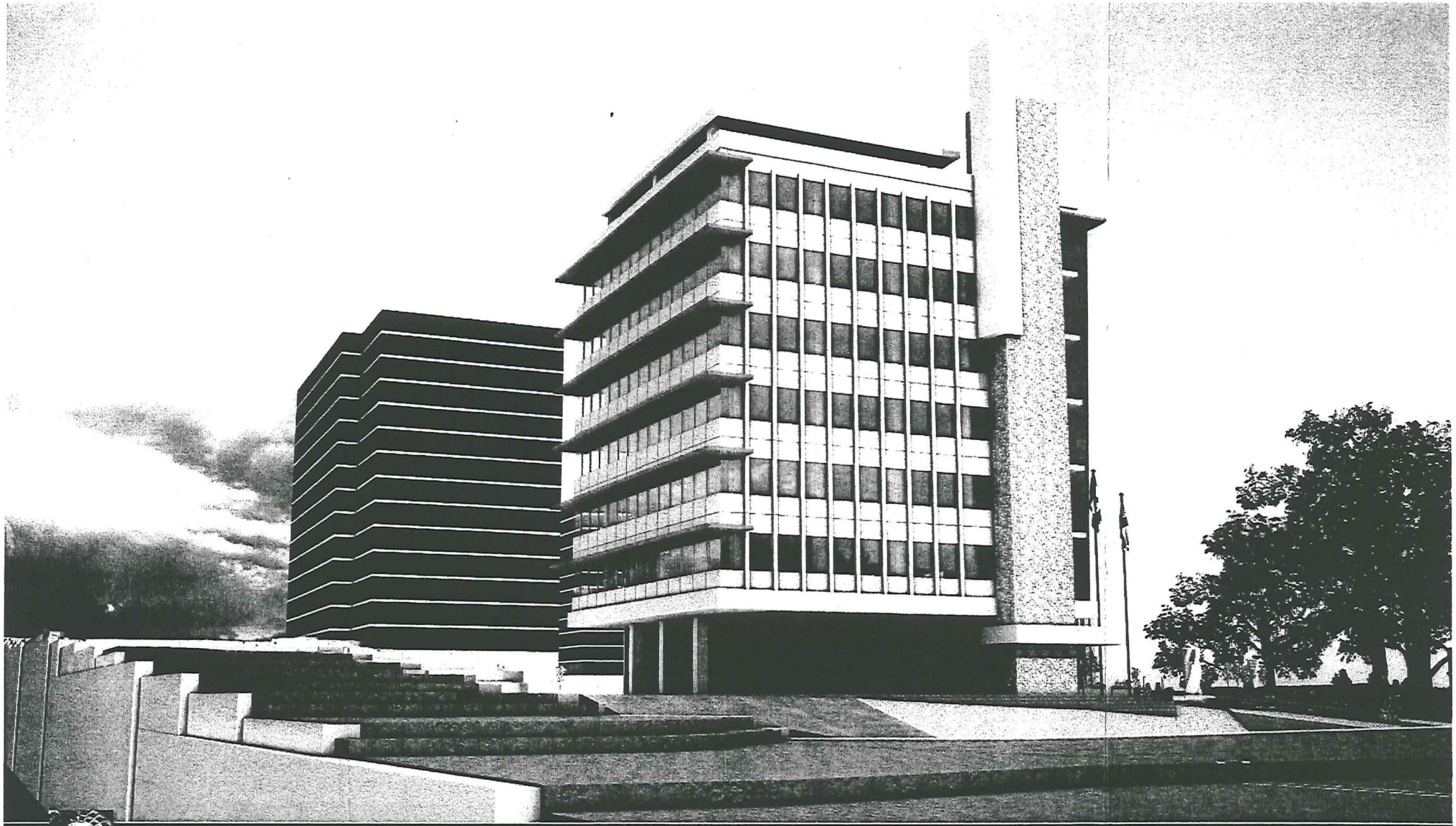
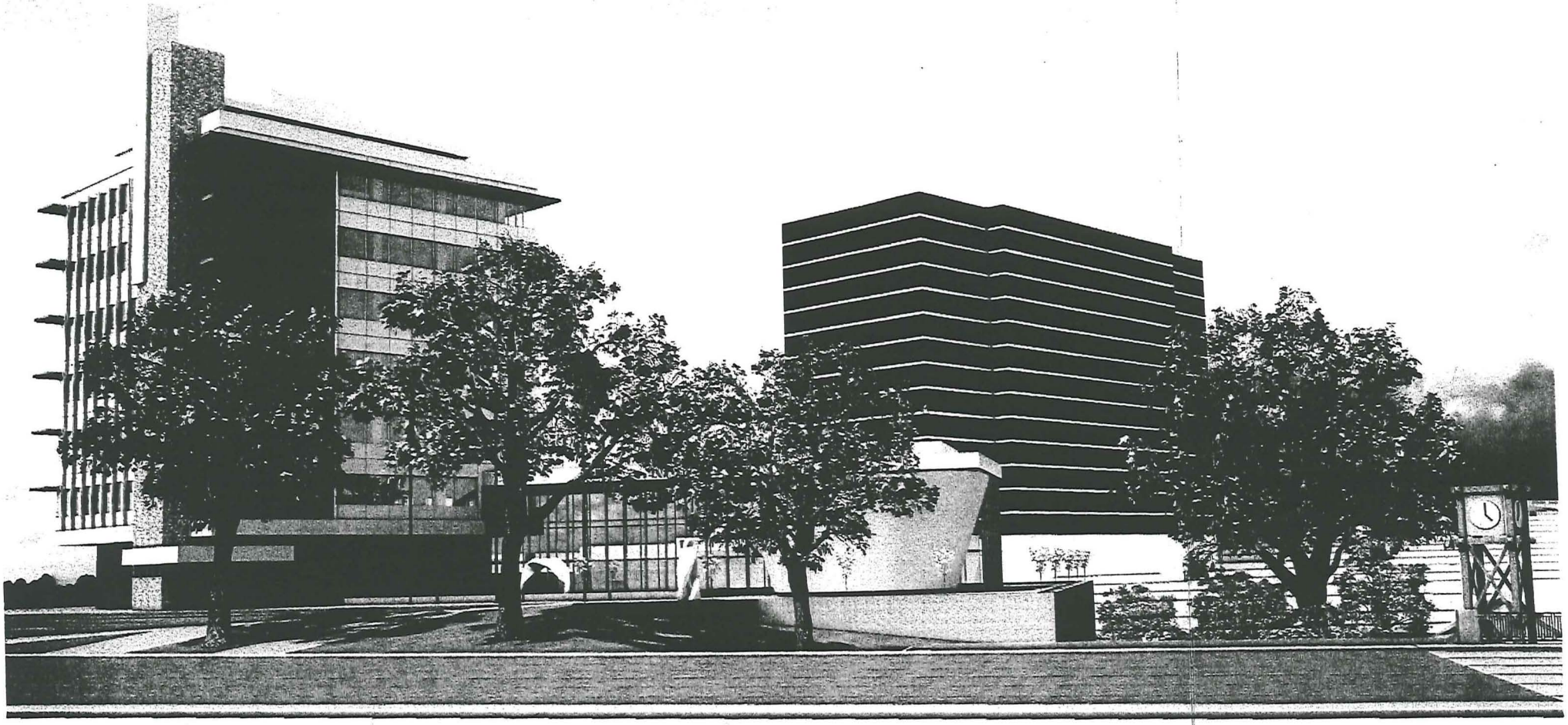

Nanaimo City Hall Phase 1 & 2



architects inc.

Nanaimo City Hall / Annex
Phase 1



Nanaimo City Hall
Phase 1 & 2

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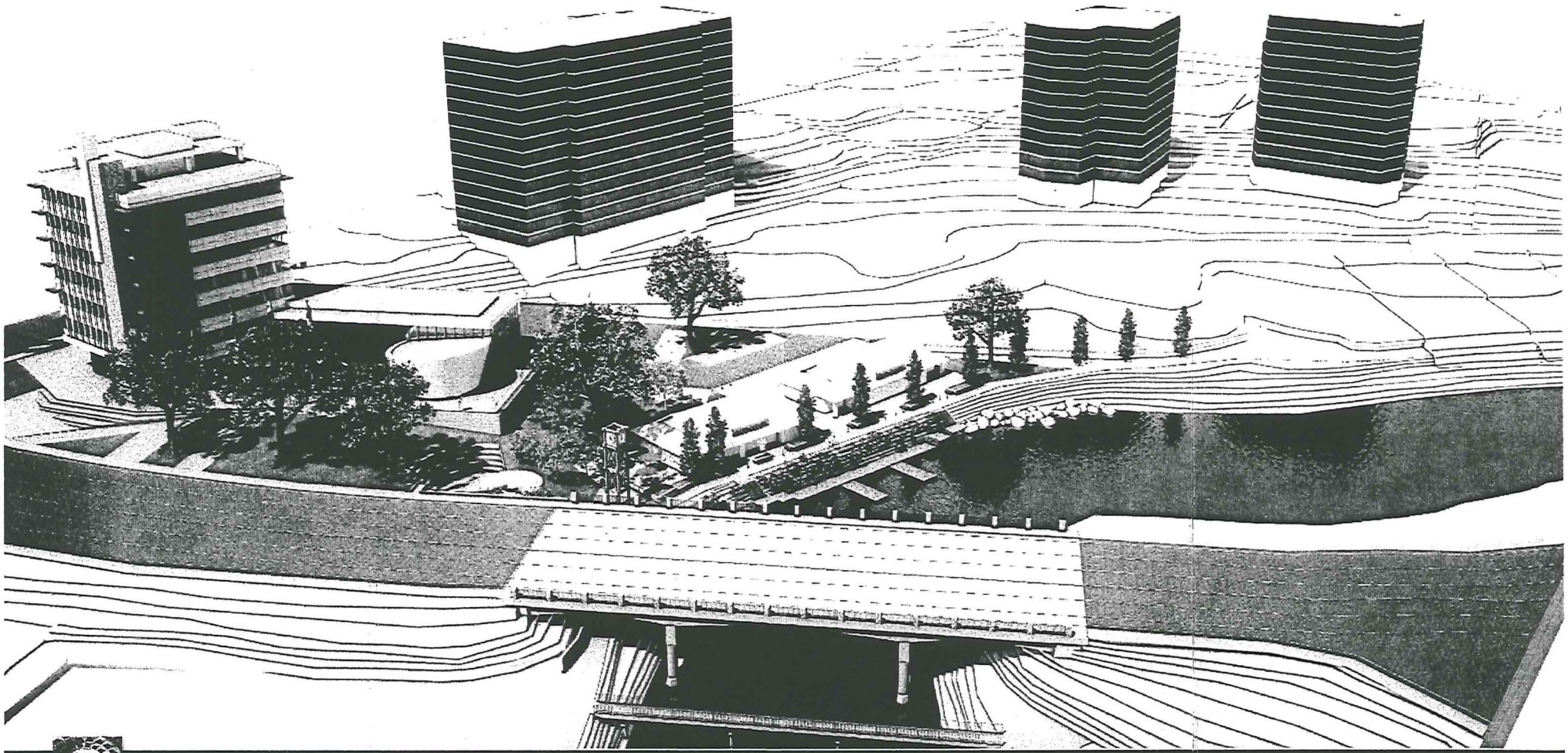
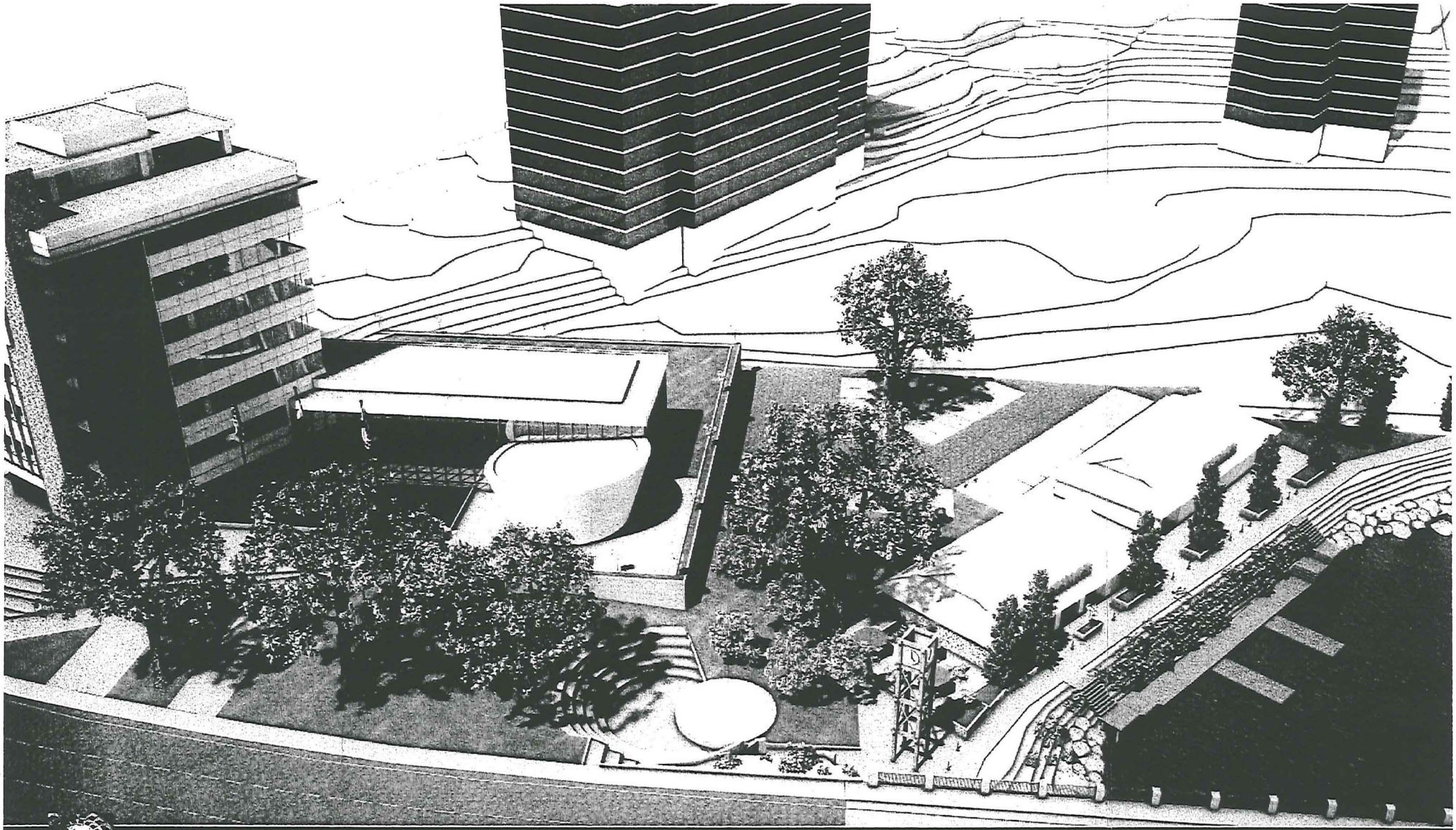


architects inc.

Nanaimo City Hall
Phase 1 & 2



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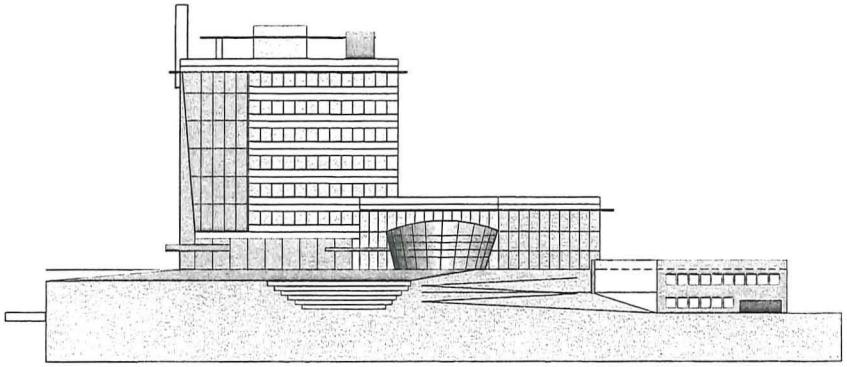
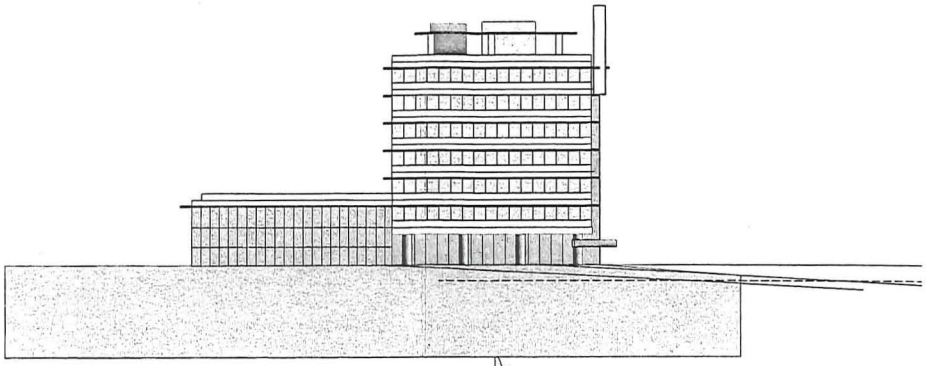
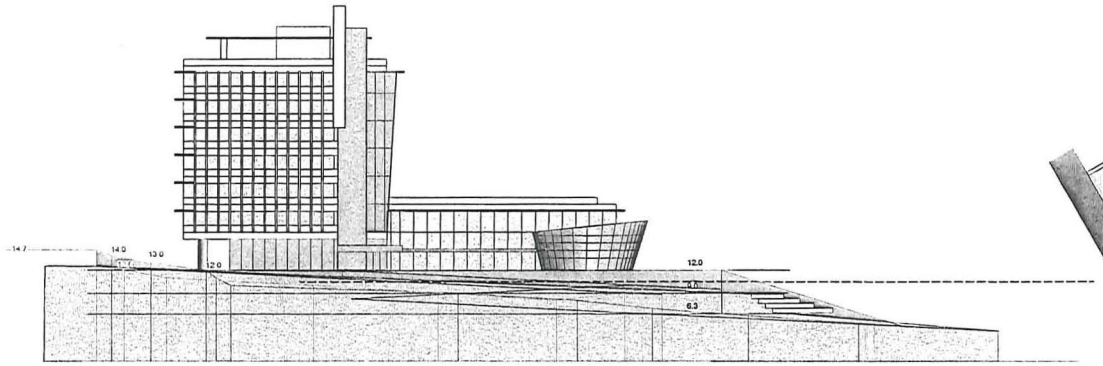
Nanaimo City Hall
with schematic Hotel / Residential



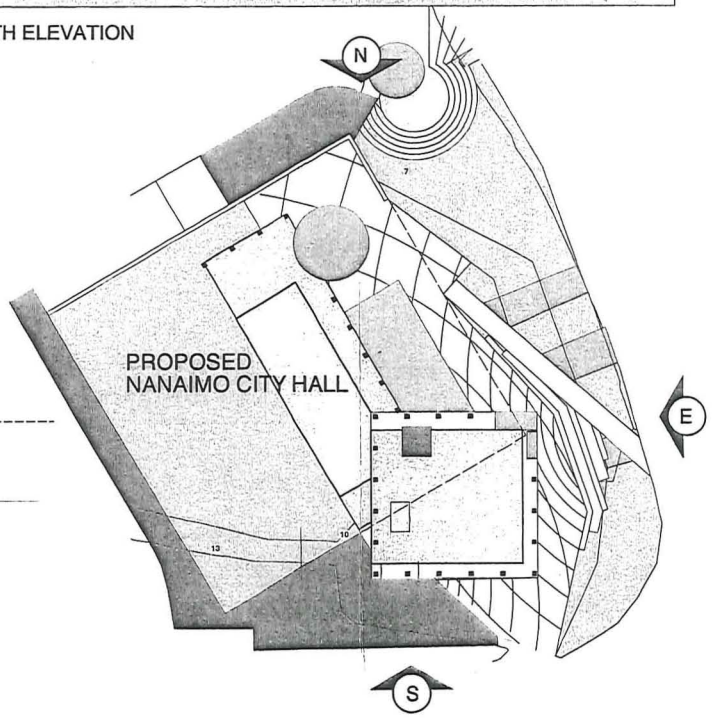
NORTH ELEVATION

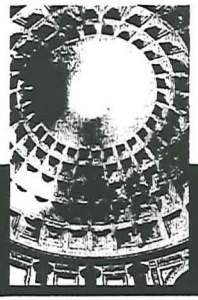


SOUTH ELEVATION



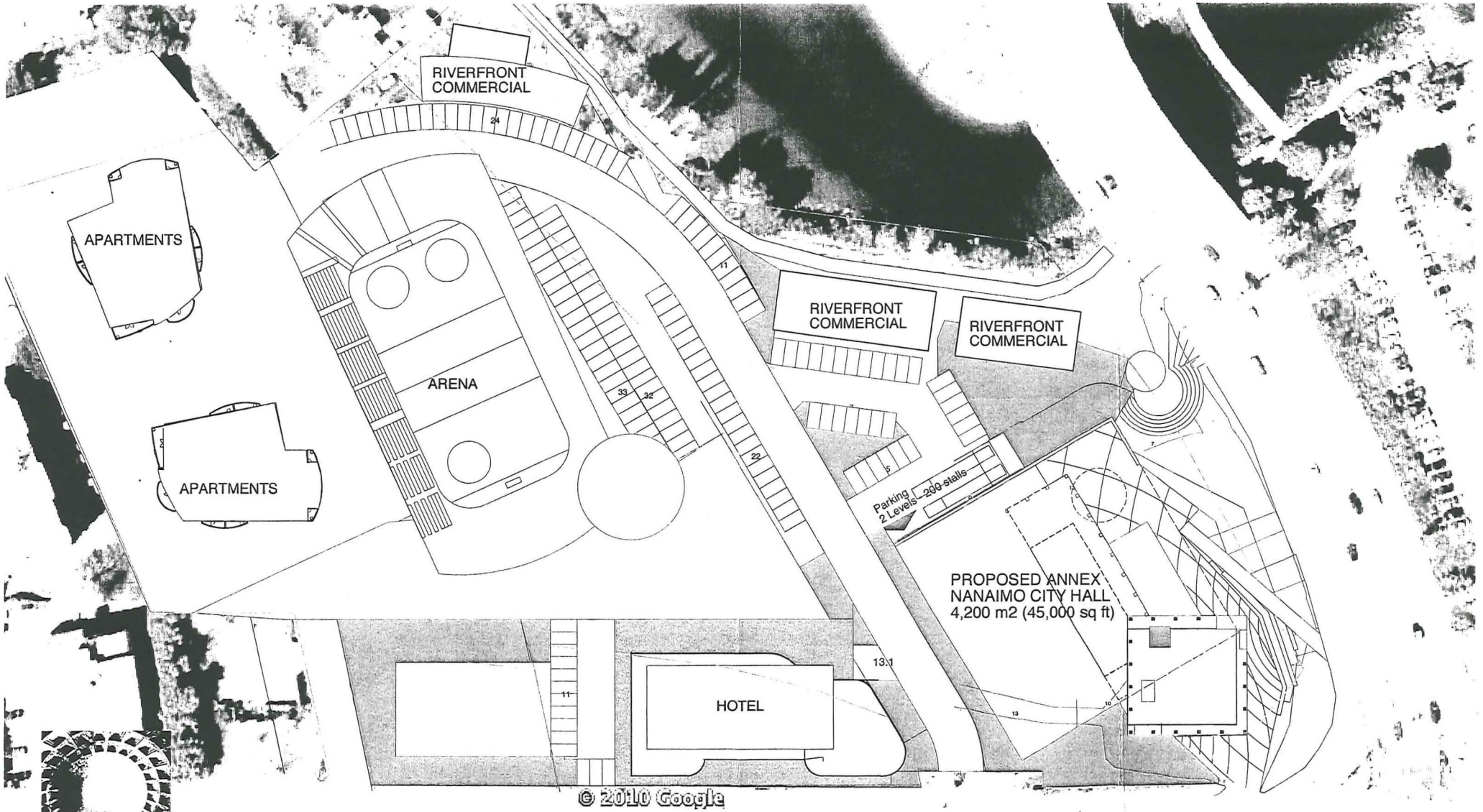
EAST ELEVATION





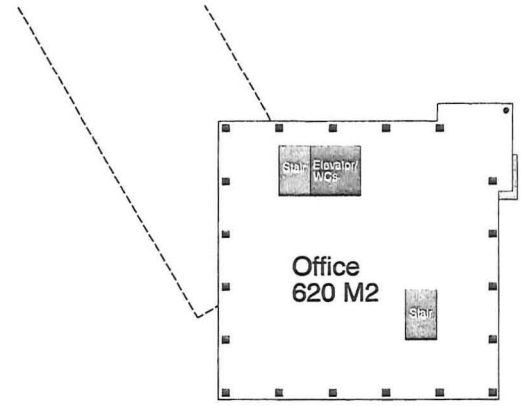
architects inc.

CITY HALL / ANNEX PHASE 1 July 21-10

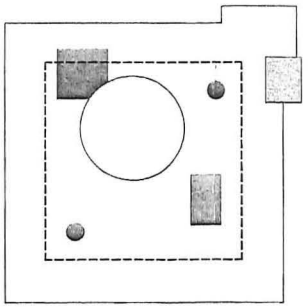


PRAXIS
architects inc.

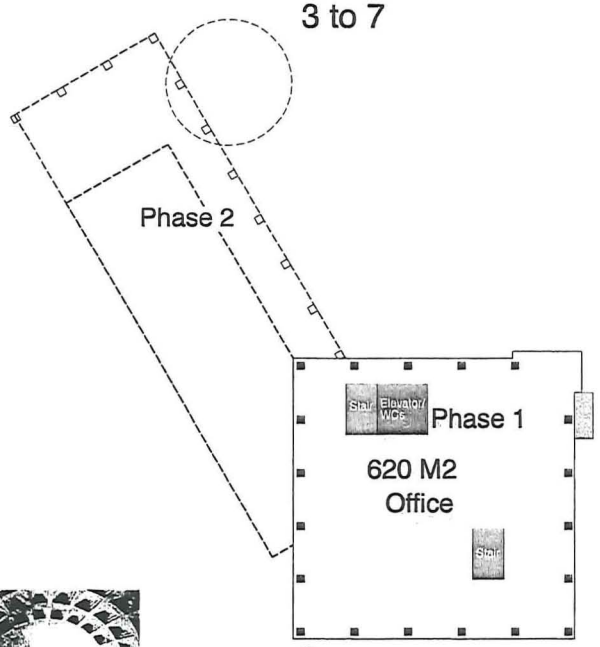
CITY HALL / ANNEX PHASE 1 July 21-10



3 to 7



Roof



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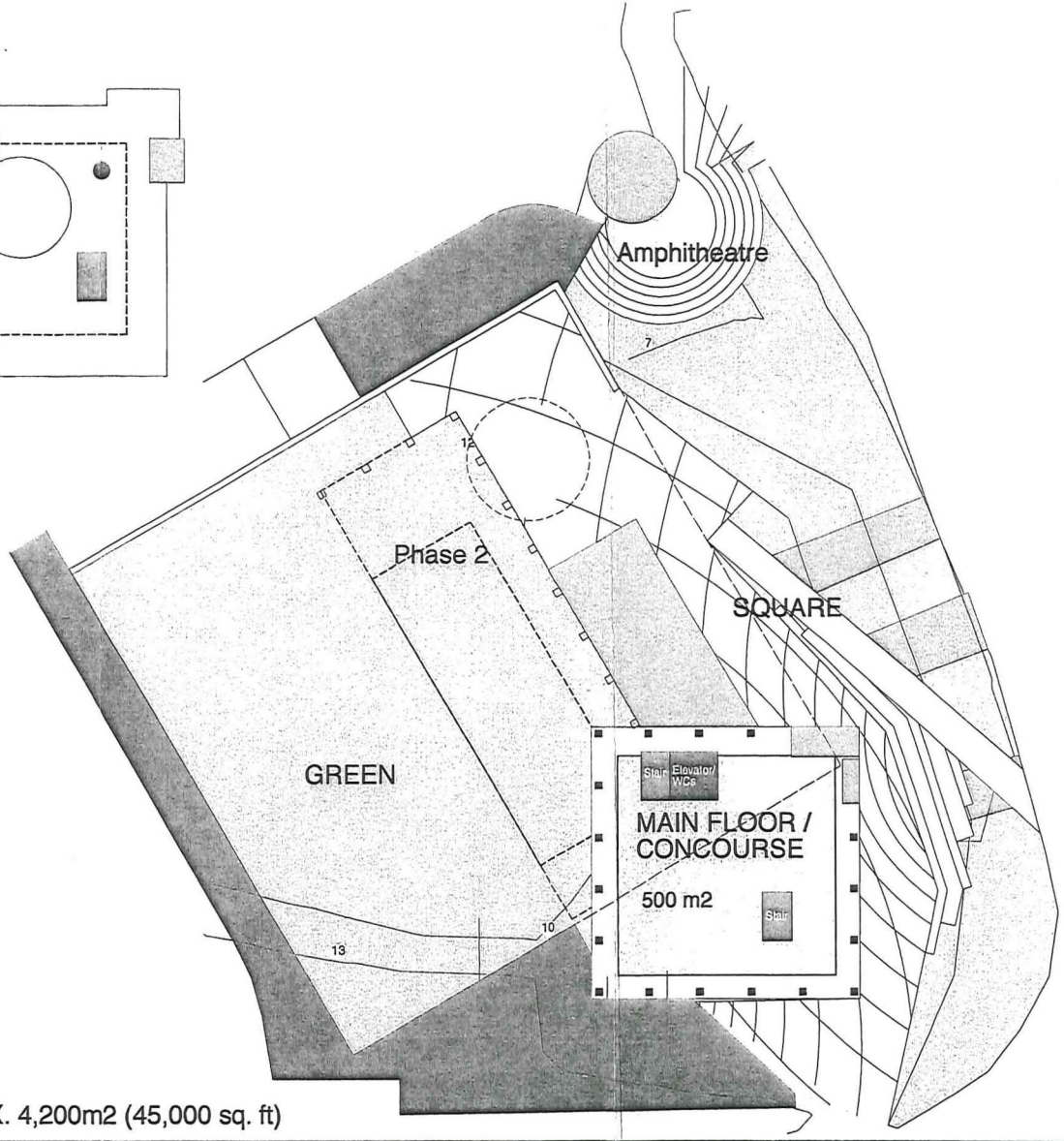
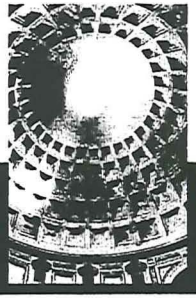


TOTAL GFA APPROX. 4,200m2 (45,000 sq. ft)



Nanaimo Old City Association
noca@oldcitynanaimo.com

June 21, 2011

Nanaimo City Council
455 Wallace Street
Nanaimo, BC V9R 5J6

Dear City Council;

On behalf of the Nanaimo Old City Association we wish express concern regarding the potential decline to the form and character of our neighbourhood possible as a result of the proposed changes to the zoning by-laws.

We ask that lots in the Old City Neighbourhood currently zoned RS1 be excluded from these proposed changes. We urge the City of the Nanaimo to establish clearly stated design guidelines and a process for neighbourhood consultation regarding single-family dwellings.

Respectfully,

Board of Directors, Nanaimo Old City Association
Dean Forsyth
Andrea Blakeman
Barbara Schreiber
Lawrence Rieper
Ryan Riddle
Alexia Penny

June 23, 2011

Mayor & Council
City of Nanaimo
Public.hearing@nanaimo

RE: Bylaw No. 4500

Unfortunately, I cannot attend the public hearing on June 23, 2011 in regard to Zoning Bylaw 4500.

I would, however, like to make the following recommendation about Section 15.1 Description of Zones: Waterfront, and in particular regarding Zone W2 which is the Harbour Waterfront zone.

RECOMMENDATION:
I would like to recommend that the following sentence be added to Section 15.1 Intent of the Harbour Waterfront (W2) Zone (Part 15 Page1):

This zone supports a building height of up to 4 storeys.

This would ensure that the zoning bylaw flags the provisions of the newly approved Neighbourhood Plan for the Newcastle+Brechin area and reduces the risk of conflict with the Official Community Plan.

Thank you,

Nancy Mitchell

Nancy Mitchell
403-225 Cypress Street
Nanaimo, BC
250-753-2522

June 22, 2011

INPUT INTO THE PROPOSED NEW ZONING BYLAWS FOR THE CITY OF NANAIMO

TO: City of Nanaimo
Attention: Dave Stewart
: Andrew Tucker, Bill Corsan, Penny Masse

FROM: Rob Borden
Commercial Realtor
Investment, development, insolvency
Real Estate Advisor

RE: The new zoning bylaws to replace Bylaw 4000.

Dear Dave

First of all, I apologize for the extreme lateness of this report. If I had not been so busy on 2 very difficult files, I would have made comments over the past 3 months from the preliminary information being forwarded to me through that time period.
Thank you for the opportunity to comment on the proposed new zoning bylaws for the City of Nanaimo. My comments come with "support" or "caution" accompanied by examples and references to those changes being considered.

Given in summary format;

1) CAUTION: The first item of reference is PARAGRAPH 6.6
Accessory uses: Buildings and Structures.

a) In this section there is the ability to increase the total of all accessory building sizes from 72.5 s.m. to 150 s.m. or 13% of the gross lot size. For an average residential lot size in this City of 780 s.m., this allows for the construction of an accessory up to the size of an average home. This is far too dense for the given neighbourhoods that presently exist. Presently, the maximum size is totally sufficient and if your property happens to be much larger than a normal lot, then a person can apply for a variance to build a larger accessory building.

b) FURTHER CAUTION: HERE THIS BYLAW STARTS TO BECOME VERY INTRUSIVE. The height of the accessory buildings can also increase, given certain stipulations. Any changes in zoning to allow any secondary dwelling to be more than a single floor with a maximum 5/12 pitched roof, will create havoc. A single floor "cottage" has windows and doors that are at or below the same size as current fence height bylaws. Allowing a design of "infill cottages" to incorporate a 2nd floor will take away the total privacy of the neighbouring back yards, whether to the side or to the rear.

A very good example of this is occurring right now is in Vancouver where on the West Side, the lots are larger and most have alley ways to access the older garages. Most neighbours in this area did not consider a cottage with a second floor and how that would affect them. Currently there is an uproar as those residents close enough to these new secondary dwellings have suddenly realized they have lost ALL of their privacy in their back yards. Regardless of window placements in these secondary homes, those living in these new dwelling units can see a neighbor garden, suntan, swim, be in their hot tub, etc. There is virtually NO privacy remaining. We must learn quickly from other Cities mistakes and address our bylaws so they do not replicate

the same problem. Second floor areas in accessory dwellings will be a nightmare to face from neighbours in the future.

As well as the privacy issue, there are significant shade effects to consider. Nanaimo faces east and the sun is behind us fall, winter and spring. Already on many of the residential lots, shading is an issue. If accessory dwelling units are to be larger and also to be height, this can significantly affect shading of neighbouring properties.

Finally, with the same premise as above, larger and higher accessory dwellings have the potential of blocking a lot of view corridors where many of our residential subdivisions are on sloping lots facing out to the Salish Sea. I have one excellent example that I can mock up to show how these changes in accessory dwelling buildings can provide considerable property invasion and reduce the property values of neighbouring properties.

2) Side yard setbacks for principle homes and fire hazard and other Cities bylaws and how they measure.

    a) There has been mention of changing the way the City of Nanaimo measures the side yard setback for a structure (home) when if, in fact the City is about to change the lot sizes to allow smaller lots.

    The problem comes into play when you look at the existing bylaws at the present time and where the City of Nanaimo is one of the very few, if not the only City that measures its side yard setbacks from the foundation. Add the overhang of the roof to this setback and you have reduced the distance between houses from 10 feet to 5 feet. Most all other municipalities measure the side yard setback from the overhang of the building structure.

Now take this one step further. The City now has to allow increased density due to the Urban Containment Boundaries finally coming into play that have now exhausted the large infill cites from the city centre to the north boundary. To add density to the City, the new zoning bylaws are to have smaller lots, i.e. 40 x 100 ft. or 4000 s.f. Take the side yard setback issue and add it to these smaller lots and what the City is creating is a fire hazard for an entire block. One house goes up the rest are more liable to go as well. More so if they have vinyl siding. I feel that this side yard setback has to be modified to the same measurement procedure as most other municipalities by changing the way side yard setbacks are measured to give more distance between single family homes. I feel the fire chief should address this issue as the City moves forward on having more homes per block per neighbourhood and closer to together. My experience in this issue comes from living and working in many Cities and Towns, each with their own bylaws and the reasons for them. I do urge this side yard measurement issue to be seriously considered as we allow further density over time.

3) Of a much less serious nature, but one that will cause considerable problems is the lowering of the fence height from 8 ft. to 4 ft. Those residents with dogs can jump a 4 foot fence very easily where most cannot get over an 8 foot fence. Further, dogs are a delicate topic and issue in neighbourhoods where, if vicious and have attacked other dogs or threatened children, this proposed reduction in fence height will cause significant problems. Besides, who wants dog poop in their yard when you don't have a dog! LOL

SUMMARY

If I have misinterpreted any of the above points, please omit.

Although there are other minor points in the new zoning bylaws that could be re – considered, they do not represent the serious problems that points

1 and 2 are spelling out. A more thorough example can be prepared to show the seriousness of points 1 and 2 if required.

Thank you for the opportunity to submit

Yours Truly

Rob Borden

Century – 21 Harbour Realty Ltd.
Rob Borden
Investment Development Insolvency
Real Estate Advisor

250 – 760 – 1066

Email: rwborden@telus.net

Maureen Pilcher & Associates

Land Use Consultants

2011-June-23

City of Nanaimo Council
Public Hearing re Zoning Bylaw – 2011-June-23

Dear Mayor Ruttan and Members of Council:

I am so pleased that the New Zoning Bylaw is moving forward and will soon be in effect. I have been advocating for the Zoning Bylaw to be married to the Official Community Plan and I truly believe that the new Zoning Bylaw will enhance the liveability of Nanaimo by increasing densities and ensuring that we continue to grow in an orderly fashion.

I have had the pleasure of utilizing the bylaw in the past few weeks and find it to be a concise and easy to access document that makes good sense and meets the goals and objectives of the OCP. I congratulate Staff on their efforts. I know that re-writing a Zoning Bylaw is a herculean task - a complex process involving many overlapping interests. I know that this bylaw will not solve all the zoning issues in the City but the consistency of the document is appreciated. Staff was inclusive of the development community as they worked through the re-write and it is gratifying that some of our suggestions have been utilized in this document.

I also know that the mapping of the zoning of all the properties has been an extensive project. The map is really where the rubber hits the road with a new Zoning Bylaw – the change in the zoning of a property can give an owner greater development rights or take some of those development rights away. It is important that the City is fair and impartial when conferring these rights – and that is why I make this submission.

Previous drafts of the Zoning Map, which were published on the web site, indicated that some of the properties with the OCP designation of Corridor would be granted a Corridor Zone in the new Zoning Bylaw. I believe that this spawned much discussion among Staff, the development community, and at the Open Houses. Many felt that conferring a corridor zone to these sites would not benefit the City – but would give unfair advantage to the 'upzoned' properties. They would have greater development rights and would not be subject to the amenity contributions etc. that are required through the rezoning process. I agree with this premise and support the decision to grant the corridor zoning to properties that either have a commercial or multi-family zone presently in place.

There are, however, some properties along the west side of Bowen Road (between Fern Road and Meredith Road) that are presently zoned Single Family (RS-1) that <u>will</u> be 'upzoned' in the new bylaw. It is difficult for me to explain to clients who have RS-1 zoned properties on the east side of Bowen Road that the properties across the road from them – in the same block and with the same surrounding uses – will now have greater development rights without applying for rezoning.

I have always maintained that the City must ensure that what is good for Mr. Smith is also good for Mr. Jones. I urge Council to ensure that either all the RS-1 zoned properties along this corridor receive the Corridor Zone – or none of them do. I urge you to maintain the integrity of this new bylaw with fairness for all and thank you for your attention.

Sincerely,

Maureen E. Pilcher.

1149 Pratt Road
Qualicum Beach, BC
V9K 1W6

Phone: (250) 752-6246
Fax: (250) 752-8513
Cell: (250) 802-6046
E-Mail: mo@maureenpilcher.com

Penny Masse

From: Aitken, Randy FLNR:EX [Randy.Aitken@gov.bc.ca]
Sent: Thursday, June 23, 2011 1:09 PM
To: Public Hearing
Subject: Written Submission: AGAINST, Bylaw No 4500

Your Worship and Members of Council,

My name is Randy Aitken,
I am the owner and resident of 250 Pine Street,

I am writing AGAINST the adoption of Bylaw No 4500 as I believe it will have real and intrinsic impact on the value of my property and neighbourhood.

Although I appreciate the value of densification, I believe, it is out of sync with, or at least too far conceptually ahead of, the North American value and culture of the automobile. I.e. Increasing the population density is fine, but, where are all the vehicles going to live?

My observations, of my neighbourhood in the old City and others are as follows:

1. There is on average one automobile per resident over the age of 18;
2. The carriage houses in the old city quarter, were designed and planned as exactly that carriage (i.e. automobile) houses (parking). In addition to eliminating a parking spot when it is converted to housing, if one observes the layout of carriage houses on adjacent properties in many cases they were designed in concert with one another. If one neighbour converts to accommodation and builds a fence where the vehicle access used to be it impairs the adjacent owners previously designed access to their garage, on property parking;
3. The present levels of density are already creating parking issues and impacts (creep) into laneways;
4. Parking creep into laneways presents a public safety risk as there are many residences that the safest and best emergency access is via the laneway and if vehicles are parked partially in the laneway it impedes even modest sized emergency vehicles (ambulances and first response fire) access and egress;
5. In addition this parking creep has already impacted garbage service and requires that city employees now do refuse collection on much busier (higher risk) city streets;
6. "street" parking is often cited as an option, but, how will snow ploughing/garbage collection work? The Brookwood neighbourhood is a classic example of where there has been significant increased densification and parking of both principle and secondary residents has overflowed to excessive street parking making snow ploughing emergency vehicle access almost impossible.

I am also concerned about the impact on site lines, view corridor's, and general neighbourhood ambience created by the increase in allowable heights of accessory buildings.

In addition although the corridor zoning does not directly impact myself, I am concerned about the impact of zoning on property values of others and sense a lack of understanding by City Staff and elected officials of the negative pragmatic impacts these, perhaps good in theory concepts, may have on other's real property values and rights.

Thank you for your time and consideration.

Respectfully,

Randy A. AITKEN
Owner and resident of 250 Pine Street

Phone Home: **(250) 754-6674**
Phone Office: **(250) 751-7022**
e-mail: **Randy.Aitken@gov.bc.ca**

Penny Masse

From: Ron Poulter [ron.poulter@shaw.ca]
Sent: Wednesday, June 22, 2011 10:57 AM
To: Public Hearing
Cc: letters@nanaimodailynews.com
Subject: Proposed bylaw # 4500
Attachments: bylaw 4500.rtf

Please find attached a letter regarding proposed bylaw #4500

This letter explains my opposition to part of that bylaw.

Should you have problems reading the .rtf format please advise and I will resend in another format.

Regards

Ron W Poulter
3065 Shamrock Place
Nanaimo BC
250-758-9596

Re proposed bylaw # 4500.

Re the section to permit "urban food gardens" and allow for the sale of food grown on these lots..

I would urge council to not implement this section of the bylaw for the following reasons.

1. What this really means is permitting a "Commercial Farm" to be operated on a city lot. Calling them "Urban Food Gardens" doesn't change what they are. They are a "Commercial Farm".

2. Commercial Farms belong on property zoned as farm land, not residential.

3. **Nuisance issues.** There is great potential for considerable nuisance issues with thing like manure, and large compost piles causing issues and problems within a neighbourhood. Including attracting of nuisance animals and the use of Pesticides and Herbicides.

4. **Safety.** The city brought in bylaw 7102 to improve the safety of all citizens within Nanaimo by prohibiting the use of Pesticides. Justification for this was, among other things, the following.

"AND WHEREAS the application of pesticides contributes to the cumulative chemical load absorbed by the natural environment;

AND WHEREAS pesticides cannot be necessarily confined to a single location but moved through the environment in the air, land and water and may have an impact on nontarget organisms and plants;"

The bylaw though specifically states that this restriction is limited to :-

Prohibitions
Subject to section 4, no person, owner or occupier of land, shall use or apply a pesticide or grant permission or authority to use or apply a pesticide for the non-essential purpose ***of maintaining outdoor trees, shrubs, flowers, other ornamental plants or turf*** on Private
Land or on Public Land.

However, as noted above, Section 4 gives exemptions.... and Section 4, subsection 3 refers to agriculture as follows.

4. Exceptions
This Bylaw does not apply to a Pesticide that is:
(3) applied for the management of pests that impact agriculture or forestry;

So.... That means those engaging in running a Commercial Farm on a residential lot in the city will be able to use any and all pesticides and herbicides they choose to use.... just as any farmer on any farm can.....

Now.... Do we really want that... Do we want school children walking past these Urban Farms to and from school as the "urban farmer" is happily spraying their crops to kill off the bugs.... Do we really want all the side affects caused by this usage of pesticides in the City... (See bylaw 7102 above) .....

Do we really want all these problems, issues, health concerns, buildup of toxins, etc, etc, in the City of

Nanaimo just so some people can operate "Commercial Farm Operations" within the city on residential property?

I don't think we do.... and I urge you to not approve this section of proposed bylaw 4500.

Please don't approve "Commercial Farms" on city residential properties.

Ron W Poulter
3065 Shamrock Place
Nanaimo BC

Penny Masse

From: Bill/Nancy [bdickins@shaw.ca]
Sent: Monday, June 20, 2011 12:34 PM
To: Public Hearing
Subject: Bylaw No. 4500

I won't be at the public hearing, but wanted to express my support for this forward thinking bylaw.

Bill Dickinson

Penny Masse

From:	harveyyeo@shaw.ca
Sent:	Monday, June 20, 2011 7:08 AM
To:	Public Hearing
Cc:	Mayor John Ruttan; Bill Bestwick; Ted Greves; Bill Holdom; Diana Johnstone; Jim Kipp; Loyd Sherry; Fred Pattje; Merv Unger; Marilyn Smith; Randy Churchill; Alan Kemp; Andrew Tucker
Subject:	Zoning Bylaw 2011 No. 4500 - Public Hearing - Submission By Email
Attachments:	June 20, 2011.docx

TO: Public Hearings/Zoning Bylaw 2011 No. 4500

INFO: The Foregoing Info Addressees

SUBJECT: Zoning Bylaw 2011 No. 4500 - Public Hearing - Submission By Email

REFERENCE: My Letter/Fax To The Community Safety And Development Division Dated June 20, 2011 (Attached)

Attached herewith is my submission by email to the public hearings with respect to draft Bylaw 2011 No. 4500. I have faxed my reference letter to the Community Safety and Development Division. As well, I have faxed a copy to the Office of the Ombudsperson as it is related to my complaint that I submitted against the City of Nanaimo.

Yours truly,

H.M. Yeo

Harvey M. Yeo
harveyyeo@shaw.ca

c/o Harvey M. Yeo
Strata Plan Corporation 1672
1-1018 Beverly Drive
Nanaimo, BC, V9S 2S4
(250) 756-2494
harveyyeo@shaw.ca

20 June 2011

BY FAX

City Of Nanaimo
Community Safety and
Development Division
455 Wallace Street
Nanaimo, BC
V9R 5J

Re: Public Hearing – June 23, 2011
Draft Zoning Bylaw 2011 No. 4500

Background. There were only approximately eight or nine condominium units listed for sale in Nanaimo in 1988. I looked at one on Bradley Street which was listed for $39,000 but allowed rentals. Therefore, I opted to purchase Strata Lot 1 in Strata Plan Corporation 1672 in 1988 for $58,000 which is a triplex at 1018 Beverly Drive and construction was almost completed.

I still have the handout that advertised the triplex at 1018 Beverly Drive and the triplex at 1024 Beverly Drive as Beverly Gardens and said that it was a retirement complex. However, the minimum age was only 45. The units had to be owner-occupied and all of the owners in 1988 were retirees. However, I am now the only remaining retiree and the other two owners in our strata plan are still working. The three units in the other triplex are all up for sale.

Two Nanaimo businessmen and a contractor formed a holding company in 1988 to build the two triplexes. The plans that the contractor used were for a retirement complex in Parksville. The holding company purchased the lots at 1018 and 1024 Beverly Drive and submitted a rezoning application to rezone the two properties as one property. Their rezoning application was denied; however, they were given approval build a triplex on each of the lots. However, this resulted in a shared driveway with the property line running diagonally between the two triplexes. Moreover, the front of the triplex at 1024 Beverly Drive because of the small lot size faces the side of our triplex which faces Beverly Drive.

According to the drawing on Nanaimo's City Map, the size of the lot at 1024 Beverly Drive is approximately 751 square metres and is a corner lot. I converted this to acres on the Internet and the answer was 0.185575 acre. The triplex at 1018 Beverly Drive is triangular in shape because it is located on a curve on the road. These two sides meet on the property line of the property at 2004 Bowen Road and the survey drawing shows that the distance between the two sides at this joint property line is 4.906 metres. The size of our lot is approximately 775 square metres and this converts to 0.191506 acre. The size of the lot at 2004 Bowen Road is shown as 0.40 acres and the answer on the Internet states, "**0.40 acre = 1618.742 m^2**". In fact the Legend on the survey drawing states, "**m^2 denotes square metres**".

Comments. My comments on the subject draft zoning bylaw are as follows:

General. There is no residential, community organization that I know of that represents the residents in the area in which I live. My comments are prompted by the City's Tree Protection Bylaw 1993 No. 4695 which designates all Douglas-Fir trees in Nanaimo as Landmark trees and the Bylaw makes them significant trees.

I did some research on the Internet and I noticed that two UK websites say that their planning departments issue tree preservation orders and the owners of the trees may appeal the tree preservation order. Conversely, the City of Nanaimo has taken a "shotgun approach".

I met a fellow who told me that either his parents or grandparents owned forested land that is now Labieux Road and the Nanaimo Public Works. In fact, the parents of the owner of Strata Lot 3 sold their forested property to the Co-op. The holding company who built the two triplexes did not remove any trees. Strata Plan Corporation 1678/1024 Beverly Drive faces the side of our triplex which faces Beverly Drive. The rear of the triplex faces Bowen Road. However, the lot size is only 751 m^2. As a result, there is no room for vehicles behind the triplex. However, there are trees between the rear of the triplex and the fence. One of the owners passed away in March 2011 at the age of 91. She was not happy with the trees because they were pushing against the fence and the triplex and shedding needles. She was concerned that a pedestrian walking on Bowen Road would flip a cigarette butt over the fence which would ignite the pine needles and burn down the triplex. However, it appears that the holding company was not mandated to remove the trees and City Council has taken a "shotgun approach" to significant trees. Notwithstanding, the name of your organization is entitled 'City Of Nanaimo Community **Safety** and Development Division'.

The property at 1017 Beverly Drive has a large evergreen which could be a Douglas-Fir in the middle of the front lawn. The residence was built after I purchased my strata lot in 1988 and an underground sprinkling system was installed which must need repairs because it is not being used which could indicate that the roots of the tree have damaged the underground sprinkling system. Moreover, the lower branches of the tree have been removed which could indicate that rather than remove the tree if it is a significant tree that it was recommended that the lower branches be removed to prevent damage to the residence from a falling branch because of either a windstorm or a snowstorm. Similarly, I received an email from Councillor Johnstone in 2011 that states in part, "**I discussed with Mr. Yeo the possibility of simply removing the limbs which hang over the fence, however that may make the trees unsightly (I think not)**." However, the trunks of both trees are almost touching the fence and this would involve removing many large branches that are high above ground level.

Ms. Linda Murray was formerly employed by the City of Nanaimo as their lawyer until she retired for health reasons. An email that I received in 2009 from the late Councillor Larry McNabb contains the findings of Mr. Alan Kemp, the City's arborist, who stated in part, "**I spoke to Linda Murray regarding this type of situation in general, and this one specifically. Linda agreed with me that this is strictly a civil matter and is not a By-law matter.**" Mr. Kemp estimated the age of the tree on the property at 2004 Bowen Road adjacent to my parking space to be 50 years. However, the owner of 2004 Bowen Road did not purchase the property until April 18, 2008 and I purchased my strata lot in 1988. Section 8 of the City of Nanaimo Bylaw 1993 No. 4695 states in part, "**a person may cut or remove trees, other than significant trees without first obtaining a tree removal**

permit if: (a) the tree or trees are hazardous and present an immediate danger to the safety of persons, or are likely to damage public or private property". Conversely, the definition of a 'hazardous tree' contained in the Bylaw states, "**means any tree which due to its location, condition, health or any other circumstances has been determined by a Certified Arborist or the Director, presents a hazard to the safety of persons or to the public or to private property.**" However, the provision in Section 8 does not apply to significant trees contrary to the definition that states **any tree**.

City Council Meeting – June 13, 2011. I watched a few minutes of the meeting of City Council on June 13, 2011. I was amazed when Councillor Pattje asked the staff member from the Planning Department who was presenting the briefing if m^2 meant square metres or metres squared with respect to minimum lot size. In fact, Councillor Kipp also said that he too was confused. Moreover, Councillor Pattje complained to the staff member that he had received a telephone call from a resident who said that he could not find the proposed zoning map. I had no problem finding it because it is shown under 'What's New' as an entry dated 5 May 2011. As well, the planning member said that the draft zoning bylaw is on a drop-done menu. I was surprised at Councillor Pattje's complaint because it indicates that he had not read the draft zoning bylaw. One telephone call does not mean that other residents had a problem finding the draft zoning bylaw on the City's website.

Proposed Zoning Map. I was only interested in the proposed zoning for 1018 Beverly Drive because I am not aware of any community group that represents the residents in the area. The colour coding on the proposed zoning map shows that the properties on the 2000 block on the east side of Bowen Road and 1018 and 1024 Beverly Drive were designated to be zoned as COR1. I pointed this out in an email to Mr. Tucker. His reply states, "**Thank you for bringing the colour coding of 2004 Bowen Road in the proposed Bylaw 4500 to my attention. Staff will correct the map colour to reflect the R1 zoning of the property to yellow. 1024 and 1018 Beverly will be zoned R5. Again, thank you for bringing this to my attention. Any property owner can apply for any zoning. It is up to Council whether they approve the application.**"

Mr. Carey Miller, Owner WestCore Industries and Investors. Mr. Miller is the owner of the property at 2004 Bowen Road; however, he resides on Meredith Road. I spoke to Mr. Miller in 2009 and he told me in effect that he and investors were going to apply to have the R1 property rezoned as COR2. As per the foregoing, 2004 Bowen Road is **1618.742 m^2**. 1018 Beverly Drive is approximately **775 m^2** and 1024 Beverly Drive is approximately **751 m^2**. Therefore, the total of the two lots is approximately **1526 m^2**. 1018 and 1024 Beverly Drive were zoned RM-1 under Zoning Bylaw 1981 No. 2370; rezoned RM-2 under Zoning Bylaw 1993 No. 4000; and, the proposed zoning under draft Zoning Bylaw 2011 No. 4500 is R5. The maximum allowable base density for R5 states, "**Three dwelling units with a total floor ratio of no greater than 0.55**". And, the additional density states, "**Where a corner lot, abuts a laneway or is 1200 m^2 in area one additional dwelling unit is permitted.**" In other words, if the rezoning application of the holding company to rezone 1018 and 1024 Beverly Drive as one lot had been approved in 1988 then the holding company under the proposed rezoning could have built a fourplex. However, the rezoning was denied but approval was given to build a triplex on each lot. The minimum lot size for COR2 is 1200 m^2. The maximum allowable height for COR2 is 14m. The only thing that Mr. Miller told me in 2009 was that the ground floor would be commercial and that the upper storeys would be residential. However, Mr. Tucker stated, "**Any property owner can apply for any zoning. It is up to Council whether they approve the application.**"

Repealed Zoning Bylaw 1981 No. 2370. I only have a copy of Section 14 of this Bylaw. I don't recall when I obtained the copy and I did not buy a computer until 2000. However, I did complain to the Board of Variance that I had suffered an injustice and hardship. Therefore, someone in the Annex to City Hall may have given it to me when I asked about the procedures with respect to the Board of Variance. Section 14 says that the minimum lot size shall not be less than 750 m^2. The lot at 1024 Beverly Drive is approx 751 m^2 and the lot at 1018 Beverly Drive is approx 775 m^2. However, Bylaw 2370 says that lot coverage shall not exceed 40% of the site area. Bylaw 2370 says that off-street parking shall be permitted only on that part of a lot lying to the rear of the front line of a principal building. However, it is impossible to park a vehicle behind the triplex at 1024 Beverly Drive because of a lack of space because the triplex faces our triplex which faces Beverly Drive. Therefore, there is a shared driveway between the two triplexes and the three parking spaces for 1024 Beverly Drive are to the north side of the triplex. The driveway extends to the side property line of 2004 Bowen Road and there is one parking space adjacent to this property line for 1018 Beverly Drive. The intent and purpose of going to the Board of Variance was to obtain authority to erect a car shelter over the 1018 parking space. However, the Board of Variance treated the car shelter as an accessory building and refused to grant a zero variance for fear of setting a precedent. Someone in the City's Annex told me that there were no setbacks for trees. Moreover, setbacks obviously do not apply to driveways and parking spaces subject to the following proviso in the invalid Tree Protection Bylaw 1993 No. 4695 that states in part, "**No person shall, unless exempted by this bylaw, carry out any of the following tree damaging activities in respect to any tree without first obtaining a permit and carrying out the activity strictly in accordance with the permit: (a) cutting or damaging the roots inside the drip line; (b) placing fill, building materials, asphalt or depositing concrete washout or other liquid or chemical substances harmful to a tree on land inside the drip line of a tree; (f) constructing or placing a building or structure on land inside the drip line of the tree**". I was unaware of this when I appeared before the Board of Variance as were the three members of the Board of Variance.

The reason that Tree Protection Bylaw 1993 No. 4695 is invalid is because it cites the superseded ***Municipal Act*** for the municipal government of Nanaimo to enact a Bylaw. The notice of the public hearing in the print media states, "**Bylaw No. 4500 if enacted, will repeal the existing Zoning Bylaw 1993 No. 4000 and replace it with a new comprehensive zoning bylaw that will affect all land within the City of Nanaimo.**" Bylaw 4500 cites sections in the ***Local Government Act*** for the City of Nanaimo to enact a zoning bylaw. Mayor Ruttan, Councillors, Mr. Churchill and Mr. Kemp have ignored my complaints that the Tree Protection Bylaw is not valid. Therefore, I have complained to the Office of the BC Ombudsperson.

Synopsis Draft Bylaw 4000 – April 7, 1993. This synopsis merely says that RM-1 Residential Multiple 1 Zone becomes RM-2 Low Density (Fourplex) Residential Zone and states, "**Notable Change. The minimum lot size of the proposed RM-2 (Fourplex) Zone has been increased from 750 square metres (8071 square feet) to 1200 square metres (12909.5 square feet) in order to ensure better site design and to accommodate the newly introduced parking and landscaping requirements.**"

Section 7.2 of Zoning Bylaw 1993 No. 4000. I have a copy of this Section and Section 7.2.11 states, "**OFF-STREET PARKING. Deleted (4000.296; 2002-Apr-22)**". However, lot coverage says that the maximum lot coverage shall not exceed 42% of the lot area. My analysis of this is that Council decided that green space takes priority over off-street parking and that 58% of the lot coverage must be green space.

Draft Zoning Bylaw 2011 No. 4500. I scrolled through the draft zoning bylaw with respect to our situation and my comments are as follows:

The table at Section 7.4.1 shows that lot size coverage for R5 is 800m^2. However, it also shows 700m^2 – **L**. I do not know what the definitions for **L** and **C** are. **Therefore is our property legal under the old bylaw but non-conforming under the proposed by-law bearing in mind that I do not know why a triplex was allowed on each lot?** I recently spoke on the telephone to someone in the Planning Department and he was only interested in whether or not the setbacks with respect to the property lines were legal and they were at that time.

Section 17.2 deals with general regulations. The holding company did not remove any of the trees. The only landscaping that they did was the seeding of a lawn and the planting of approximately six azaleas in the alcoves of the bay windows in the flower beds.

I do not understand Section 17.2.5 which refers to native trees. Mr. Kemp said that the two trees on Mr. Miller's property were Douglas-Firs (landmark trees) and therefore they are classified in the invalid Bylaw 4695 as significant trees. The Tree Protection Bylaw 1993 No. 4695 refers to the ***Municipal Act*** which has been superseded as the authority for Council to enact the bylaw. The City of Parksville and the City of Victoria had no problem in repealing their previous bylaw and citing the ***Community Charter*** as the authority for Council to enact a new bylaw.

Initially, Mr. Kemp inspected the two trees on Mr. Miller's property in 2009 but he did not discuss the condition of the trees or other circumstances with me at the time of his inspection. I subsequently received an email from the late Councillor McNabb that Mr. Kemp's finding was that the two trees on Mr. Miller's property were healthy and that severing the roots that are on our property could destabilize the two trees. However, subsequently on the night of 10/11 January 2011, two large branches snapped off one of the two trees because of the weight of a heavy, wet snowfall but did not damage my car. I attached two photos of the two large branches and other debris in an email to Mayor Ruttan, Councillors, Mr. Churchill and Mr. Kemp. Councillor Johnstone and Mr. Kemp visited our property in February 2011. However, I have not received a reply from Councillor Johnstone, Mr. Churchill or Mr. Kemp.

Moreover, I met with Mayor Ruttan and Mr. Churchill in the Mayor's office in 2009. I purchased a 1987 Honda Civic in 1987 and I purchased the strata lot in 1988. A large branch snapped off one of the two trees however the small dent was not significant and therefore I did not submit a claim. I threw this large branch over the fence and it is still there. I traded in the 1987 Honda in 2006 on a 2006 Honda Civic. I don't recall the year but the fact is that the large branch that I threw over the fence snapped off prior to 2006 and is just one of the pieces of debris along Mr. Miller's fence/property line. There is a clump of three trees that are on the front of our property and I had previously taken photos of the trees which are sagging because of the weight of the snow. I showed these photos to Mayor Ruttan and I wanted to make the point to Mayor Ruttan that I was using a corn broom to knock the snow off the lower branches to keep them from snapping off. However, I never had a chance to make my point because Mayor Ruttan said that he had to leave for another engagement. I have submitted emails to Mr. Churchill complaint that Mr. Miller has not removed the debris from the two trees along the fence line. However, Property Maintenance Bylaw 1990 No. 3704 similar to Tree Protection Bylaw 1993 No. 4695 makes reference to the ***Municipal Act*** as the authority for Council to enact a bylaw.

Mr. Kemp had a contractor remove six trees on the City's property following the meeting in February 2011. The stumps of five of the trees evidence the fact that they are rotten. I forget when the Canadian Utility Construction Company installed a second gas line for Terasen Gas and their letter to residents is undated. They only installed the second gas line as far as the east side of our west driveway as there is a clump of three trees on our property and a survey stake shows that the gas line was to go between the three trees. The foreman asked if he could sever the roots of the trees and I said no because this would destabilize the three trees and if I gave my permission and one or more trees landed on our triplex during a windstorm, snowstorm or earthquake then Terasen would not be responsible and our deductible in the event of an earthquake is $19,000. On October 29, 2009, I telephoned the installer who referred me to Terasen which is now Fortis BC and I stated in my minute on the foregoing letter to residents, "**Spoke to Terasen. City rejected permit. They still plan to complete the additional gas line at a later date.**" The spokesperson at Fortis BC was referring to the fact that Fortis BC wanted to change the route of the gas line to the City's property adjacent to the roadway however the City denied their application.

The mileage from our triplex to the Caledonia Clinic is 3.1 KM and therefore it is approximately 3.5 KM to the City Hall Annex. As per the foregoing, our deductible in the event of an earthquake is $19,000. One of the three trees is leaning on an acute angle towards my strata lot and could topple during a windstorm, snowstorm or earthquake. Our deductible is $500 for property damage attributable to a windstorm or snowstorm however the cost of removing a tree in comparison is approximately $500 and therefore it makes more sense from safety and economical aspects to remove potentially hazardous trees. For example, I recently replaced my windows with vinyl windows. However, it was discovered when they removed the old picture window in the living room that ants had eaten away portions of some of the studs. The cost to repair the damage was $2,458. Mr. Kemp had a contractor cut down six trees on the City's property and the stumps of five of the trees are rotten. I assume that the three trees are also rotten. This makes little sense to me from a safety perspective because the three trees tower over our triplex. **Therefore, why wasn't the holding company mandated to remove the three trees?** The fact is that there are two clumps of trees varying in age on our front property line and they do not form an evenly spaced, continuous row. **Therefore, why wasn't the holding company mandated to remove the three trees and plant a continuous hedge in their place?**

Density. I recall that a City in the interior rezoned one side of a road for single family residences. However, the City rezoned the other side of the road for condominiums after the single family residences were sold. Obviously, higher density means higher property tax revenue for the City and Nanaimo is following suit.

As per the foregoing, lot coverage for a triplex was not allowed to exceed 40% of the site area in 1988 under Zoning Bylaw 1981 No. 2370. This was changed to 42% for a triplex under Zoning Bylaw 1993 No. 4000. I am confused by the draft Zoning Bylaw 2011 No. 4500. **I would like the City/Mr. Churchill to direct Mr. Miller to remove the two trees which Mr. Kemp said in 2009 were healthy even though a large branch snapped off one of the two trees prior to 2006 and two large branches subsequently snapped off one of the two trees during a heavy, wet snowfall in 2011. I would then repair my parking space because severing the roots would not destabilize the tree if the tree was removed. Moreover, draft Bylaw 4500 only authorizes a fabric, car shelter for 120 days. Therefore, it is requested that the draft bylaw be amended to allow freestanding car shelters on parking spaces. As per the foregoing, there are no setbacks for parking spaces and driveways from property lines but there are setbacks for car shelters and accordingly the Board of Variance**

treated my request to erect a car shelter on my parking space adjacent to the property line as an accessory building and therefore the setback applied and they refused to approve a zero variance.

Yours truly,

H.M. Yeo

Harvey M. Yeo,
harveyyeo@shaw.ca

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June 23, 2011

City of Nanaimo
455 Wallace Street
Nanaimo, B.C.

Mayor Ruttan & Council Members:

May I state I am opposed to the proposed new Zoning Bylaw 4500.

I often wonder who demands change to the quality of life, neighbourhood and community.

I, for one have always understood our Community has attracted new comers not based upon change of density. I remember just a few years ago the City Manager provided a power point presentation to the Council using Benson Meadows, the spacious subdivision adjoining Shady Mile on Jingle Pot Road as the type of attraction to our Community.

What type of a high density 'bedroom' are you trying to create?

"Nanaimo's unemployment rate double provincial average" should be a message you are in the wrong direction !

The 'Executive Summary' is quite clear ".....if adopted, the new Zoning Bylaw will reflect the goals of the OCP....."

May 16, 2011, I did state ".....the rewrite of the Zoning Bylaw .....establishes our OCP of more than just a guide for decision making in regards to planning and land management issues."

There was question when I raised the issue of Section 890 sub 4(a) of no more need for public hearings if a proposed Zoning Bylaw is consistent with the OCP.

Well, just as I stated here is an example.

Town of Comox, May 18, 2011 has just waived the holding of a public hearing for the exact reason, "the proposed development is in compliance with the intent of the applicable policies of the OCP."

Again, I will say GOODBYE public hearings, neighbourhood involvement, the OCP will prove to no longer be a guide; we will conquer the neighbourhood for the developer without public hearings.

I strongly encourage the Council to continue to provide a neighbourhood the opportunity to the question of smaller lot area / density; our present zoning bylaw is a very good up to date working document.

Council has just said 'no' to higher density in a few neighbourhoods after listening to those affected, even abandoning related bylaws.

Yes, the stakeholders have been consulted; local developers, design professionals, land use consultants, Chamber of Commerce Vancouver Island Real Estate Board, Plan Nanaimo Advisory Committee etcetera.

Staff report suggests approximately 120 members of the general public attended the Open House Meeting with only 62 surveys in hand.

This is far too low public involvement to change our Zoning Bylaw.

Staff in their wisdom advertize this public hearing in a local newspaper, a newspaper apparently only having a 4000 circulation: may I suggest to limit debate about the new zoning bylaw or attendance to this meeting ?

The May 17, 2011 Plan Nanaimo Advisory Committee appeared to be lead by influence.

A PNAC member raised question as to how much area of the City is covered by building schemes /covenants regulating lot size, building size, height etcetera with concern of the proposed new Zoning Bylaw.

To recall the words of the Design Review Chairman who was in attendance; it's what the people want, higher pitched roofs, smaller high density lots, etcetera.

He continued, referring to a structure within the PNAC members neighbourhood as the architect of the project, stating the higher pitched roof etcetera you see is within your covenant requirements and encouraged the support of the new bylaw.

Well time will soon tell!

As well, was there really a need or purpose for the minutes of the May 17 meeting to ignore this dialogue ?

And I do note, Land Title office will not accept a sub-division of any of the properties within the area I reside as stated in the building scheme.

In my opinion, another PNAC member also mislead the group on fence height, suggesting a lower fence encourages the building of a neighbourhood. He simply just does not understand Crime Prevention Through Environmental Design, it's between public and private property the protection is needed. I for one have 4' fencing between myself and my neighbour.

Again, since 1979 a 2.4 metre fence height has been established for side and rear yards, why create this long established height as illegal non-conforming for all the established fencing.

Staff use Crime Prevention Through Environmental Design to support the reduced height, suggesting sight or open view to private property is a deterrent to crime, little do they know!

Private property is not always under watch, not expected to be lighted for night watch and needs a barrier to trespass.

I beg to differ, Vancouver, Kamloops, Kelowna, Courtenay, Qualicum, Parksville, Victoria, Duncan, Ladysmith etcetera all have over 6' height side and rear yard fencing.

Council meeting of June 13, 2011, Andrew Tucker's power point presentation did name other municipalities fence heights.

Kamloops was portrayed to allow a 1 metre fence height for side and rear yards; Kamloops Bylaw 5-1-2001 section 5309 (a) is very clear "fences to a maximum of 2 m shall be permitted in the rear and side yards (1 metre only in a yard that abuts any street; the principal means of access to a lot, I believe to infer the front

of a lot); as well 2 metres in a side or rear yard abutting a major road.

Again, Kelowna was portrayed to allow a 1 metre fence height for side and rear yards; Kelowna Bylaw 8000 section 7.5.3 is again very clear "no fence constructed at the natural grade in residential zones shall exceed 2.0 metres in height" (2.4 abutting agriculture or commercial zones)

Before leaving the Director of Planning / General Manager of Development Services report; 8 out of the 11 Communities actually are over or shall we say allow higher side and rear yard fencing than the proposed 1.8 metre for Bylaw 4500.

A 7'8" fence is preferred to a hedge / trees of uncontrolled height which creates complaint to the loss of distant view by adjoining neighbours.

Crime Prevention Through Environmental Design addresses public space not private space.

Crime Prevention Through Environmental Design Natural Access Control limits the opportunity for crime by taking steps to clearly differentiate between public space and private space.

Just travel our Community and view all the illegal fencing installed by the City, 50% higher or 6 feet for residential front yards.

Yours truly,

D Taylor

TOWN OF COMOX
PLANNING REPORT

TO:	RICHARD KANIGAN, CHIEF ADMINISTRATIVE OFFICER
FROM:	MARVIN KAMENZ, MUNICIPAL PLANNER PETER MAROHNIC, PLANNER I
SUBJECT:	REZONING APPLICATION: RZ 11-02 A BYLAW TO AMEND THE TOWN OF COMOX ZONING BYLAW, 1377 TO FACILITATE THE CONSTRUCTION OF A SECONDARY SUITE AT 1468 COMOX AVENUE
DATE:	MAY 18, 2011

Submitted by	Concurrence	Approval

Recommendations:

1. That Bylaw No. 1680 (Comox Zoning Bylaw Amendment No. 55, 2011) be given First and Second Reading **(Attachment 4)**.
2. That in accordance with Section 890(4) of the *Local Government Act* the requirement to hold a public hearing on Bylaw No. 1680 be waived.

TOWN OF COMOX

REGULAR COUNCIL MEETING AGENDA OF WEDNESDAY MAY 18, 2011

7. NEW BUSINESS:

(377) **a. Rezoning Application RZ 11-02 (1468 Comox Avenue)**

1. *That Bylaw No. 1680 (Comox Zoning Bylaw Amendment No. 55, 2011) be given First and Second Readings.*
2. *That, in accordance with Section 890(4) of the Local Government Act, the requirement to hold a public hearing on Bylaw No. 1680 be waived.*

VANCOUVER

Fences as per Vancouver's Zoning & Development Bylaw
(Excerpt from Zoning & Development Bylaw)

10.16.1 For the purposes of this section, the term "fence" shall include arbors, archways, boundary fences, gates, pergolas, screens, trellises, walls and similar structures.

10.16.2 Height shall be measured from any point on the ground level of the site at the structure or fence line.

KELOWNA

(a) all hard surface areas shall use a decorative paving surface;

(b) a minimum of two benches for public seating shall be provided;

(c) a minimum of 3 trees, with a minimum 65 mm **caliper** and rootball of 900 mm, shall be provided; and

(d) pedestrian and decorative lighting must be provided.

7.5 Fencing and Retaining Walls

7.5.1 Screen fences shall be consist[illegible]

KAMLOOPS

SCREENING AND FENCING

5309 a) In all residential zones (RS-1, RS-1S, RS-2, RS-3, RS-4, RS-5, RT-1, RT-2, RT-3, RM-1, RM-2, RM-2A, RM-3, MHS, MHS-1), the following fences are permitted:

- fences to a maximum of 1 m high shall be permitted in any yard;
- fences to a maximum of 2 m high shall be permitted in the rear and side yard

COURTENAY

Part 8 Fences

6.8.1 In the residential zones the maximum *height* for a *fence* in or along the *front yard* shall be 1.25 m and in or along the side or *rear yards* shall be 2.0 m.

6.8.2 In all zones other than residential zones the maximum *height* for a *fence* shall be 2.0 m except where provided for in other parts of this Bylaw.

6.8.3 Fences erected on *corner lots* are subject to Section 6.7.1 of this Bylaw.

6.8.4 The *height* of a *fence* or wall shall be determined by measurement from the ground level at the average grade level within 1.0 m of both sides of such *fence*, wall or hedge.

6.8.5 The installation of electrical, barbed or razor wire fencing is prohibited in all Residential and Multi Residential zones.

QUALICUM

130

DIVISION 500

SCREENING AND LANDSCAPING

501 FENCE HEIGHT LIMITATIONS IN RESIDENTIAL ZONING DISTRICTS

On a lot which is regulated by Zoning District Schedules RS-1, RS-2, RS-3 or MH-1, fence heights shall not exceed:

PARKSVILLE

130

DIVISION 500

SCREENING AND LANDSCAPING

501 FENCE HEIGHT LIMITATIONS IN RESIDENTIAL ZONING DISTRICTS

On a lot which is regulated by Zoning District Schedules

DUNCAN

5.14 Fences

Except as otherwise specifically stated in this bylaw,

(a) the height of a fence or wall shall be measured to the highest point from and perpendicular to a line representing the average grade level at the base;

(b) a fence within a required front yard shall not exceed a height of 1.2 metres and fences in all other parts of a parcel shall not exceed a height of 2.0 metres except within zones in which commercial or industrial use is permitted, in which case the maximum height permitted is 2.5 metres;

7'

LADYSMITH

5.9 **Fences**

(1) Subject to the visibility clearance at intersections provisions of Section 5.8, the following height limitations will apply to fences:

(a) For a parcel with the following zones the maximum height of fences shall be:

Zone Category	Maximum Height
Residential zones	1.2 m – front yard 2.0 m – side or rear yard - 7'

Fence Height

Current Regulations

Yard	Maximum allowable height
Front (first 6m/20ft of lot)	1.2m (3.94 ft)
Flanking Side- corner lot	1.8 m (5.9 ft)
Rear/ Side	2.4m (7.87 ft)

A 2.4m rear yard high fence on a lane

A 1.8m high fence along a side walkway

Proposed Regulations

Yard	Maximum allowable height
Front (first 4.5m/ 14.8 ft of lot)	1.2m (3.94ft)
Flanking Side	1.8m (5.9 ft)
Rear/Side	1.8m (5.9 ft)

Other Municipalities

City	Front Yard Max Height	Rear Yard Max Height
Burnaby	1m	1.8m
Campbell River	1.2m	1.8m
Comox	2.3m	2.3m
Courtenay	1.25m	2m
Kamloops	1m	1m*
Kelowna	1m	1m**
Maple Ridge	1.2m	2m
North Cowichan	1.2m	2m
Port Alberni	1.2m	1.85m
Port Coquitlam	1.2m	2.5m
Prince George	1.2m	2m**

*may be increased to 2m where side or rear property line abuts a major road
**may be increased to 2.4m where lot abuts a agriculture or commercial zone

"Storey" means the habitable portion of a building which is situated between the top of any floor and the top of the floor next above it and if there is no floor above it, that portion between the top of such floor and the ceiling above it. The first storey shall be considered that part of the building that is no greater than 2 m above the average finished grade or the crown of the road abutting the front of the lot, whichever is greater.

"Street" means a road allowance which affords the principal means of access for abutting lots.

"Street Line" means any boundary of a lot abutting a street.

"Structure" means a construction of any kind whether fixed to, supported by, or sunk into land or water.

"Structure, Accessory" means an incidental or subordinate structure which is:

a) customarily accessory to the principal building located on the same lot;

b) customarily accessory to the principal use being made of the land upon which it is located.

"Trade and Technology Centre" means a facility consisting of a building or group of buildings which caters to businesses or individuals that are involved in software development, Internet or other information technology applications, research and development, or manufacturing of products which utilize new innovative technology.

"Truck Travel Centre" means a comprehensive service facility catering primarily to the needs of commercial truck traffic and motorists and shall include facilities for the sale of motor vehicle fuel and accessories and the servicing of tractor trailers. A restaurant, hotel, convenience store, arcade, and fruit and vegetable stand may also be integrated within the development.

"Use" means the purpose or function to which land, buildings, or structures are designed, intended to be put, or put.

"Use, Accessory" means a use incidental or subordinate to the principal use of the land, structure or building.

"Use, Nonconforming" means any use which does not conform with all the regulations for the zone in which the use is located.

"Use, Principal" means the primary and chief purpose for which land, buildings and structures are used.

"Use, Residential" means the occupancy or use of a building or part thereof as a dwelling.

MAINTENANCE

5308 All landscaping shall be maintained in good condition in conformance with the approved landscape plan. In the event of failure to comply, the City may enter upon the site and maintain the landscaping at the expense of the property owner, the cost of which will be added to the owner's current year's taxes.

SCREENING AND FENCING

5309 a) In all residential zones (RS-1, RS-1S, RS-2, RS-3, RS-4, RS-5, RT-1, RT-2, RT-3, RM-1, RM-2, RM-2A, RM-3, MHS, MHS-1), the following fences are permitted:

- fences to a maximum of 1 m high shall be permitted in any yard;
- fences to a maximum of 2 m high shall be permitted in the rear and side yard except that maximum fence height shall be 1 m in a yard that abuts any street; and
- fences to a maximum height of 2 m shall be permitted in a rear yard and side street yard abutting an arterial or major collector road subject to the following:
  - a setback of 1 m where the boulevard is landscaped and requires maintenance provided:
    - a 0.8 m gate is installed;
    - the 1 m setback is planted with a combination of groundcover and shrubs and/or trees;
    - traffic sightlines are maintained as described in condition (e) below; or
  - at property line where the boulevard has naturalized landscaping and access is prohibited provided traffic sightlines are maintained as described in condition (e) below.

(5-1-2525)

b) In all multiple family residential zones (RM-1, RM-2, RM-2A, RM-3, RC-1), the following areas shall be screened from the view of streets, highways or adjacent properties:

- outdoor and rooftop equipment including mechanical, electrical or other service equipment;
- outdoor garbage bins; and
- parking areas.

c) In all country residential zones (CR-1, CR-2, CR-3), fences to a maximum of 2 m high shall be permitted in any yard.

d) Where landscape features utilized for screening purposes are located on or adjacent to a property line, they shall comply with the height requirements for fences.

(a) all hard surface areas shall use a decorative paving surface;

(b) a minimum of two benches for public seating shall be provided;

(c) a minimum of 3 trees, with a minimum 65 mm **caliper** and rootball of 900 mm, shall be provided; and

(d) pedestrian and decorative lighting must be provided.

7.5 Fencing and Retaining Walls

7.5.1 Screen **fences** shall be consistent with the quality of **building** design and materials of the principal **building**.

7.5.2 Screening **fences** shall be opaque double-sided **construction**. Where screen **fences** are allowed or required by this Bylaw, they shall be of an opaque or a combination of opaque and lattice design.

7.5.3 No **fence** constructed at the **natural grade** in rural residential or **residential zones** shall exceed 2.0 m in **height**, except where **abutting** an agricultural or commercial **zone**, the maximum **height** is 2.4 m.

7.5.4 No **fence** in a commercial or industrial **zone** shall exceed 2.4 m.

7.5.5 Industrial **zones** are to have an opaque 2.4 m high **fence** around all storage yards, along all **property lines abutting** non-industrial **zones** and around **wrecking yards** that are visible from a **street abutting** the property.

7.5.6 No barbed wire fencing shall be allowed in any rural residential, urban residential, or **institutional zones** except:

(a) in RR1 and RR2 **zones** for **use** in livestock enclosures; and

(b) in the P1 **zone** where the **site** is used for detention and correctional services.

7.5.7 No razor wire fences shall be allowed in any zone except where associated with penitentiaries, jails or places of incarceration.

7.5.8 No opaque **fences** are permitted in W1 or W2 zones.

7.5.9 Retaining walls on all residential **lots**, except those required as a condition of **subdivision** approval, must not exceed a **height** of 1.2 m measured from grade on the lower side, and must be constructed so that any **retaining walls** are spaced to provide at least a 1.2 m horizontal separation between them.

7.5.10 Notwithstanding Section 7.5.7 [now, 7.5.9], a **retaining wall** may be higher than 1.2 m, measured from grade, where the **natural grade** of the subject property is lower than the **abutting** property (see Diagram 7.1).

7.5.11 In the case of a **retaining wall** constructed in accordance with Section 7.5.7,[now 7.5.9] the combined **height** of a **fence** on top of a **retaining wall** at the **property line** or within 1.2 m of the **property line** shall not exceed 2.0 m, measured from **natural grade** at the **abutting** higher property (see Diagram 7.2).

PRESENTATION TO:

COUNCIL

CITY OF NANAIMO

PUBLIC HEARING

THURSDAY, JUNE 23rd 2011

AT:

SHAW AUTITORIUM,

VANCOUVER ISLAND CONFERENCE CENTRE,

80 COMMERCIAL STREET, NANAIMO BC

TO CONSIDER:

ZONING BYLAW 2011 NO. 4500

BY:

LAWRENCE RIEPER

990 CAMPBELL STREET,

OLD CITY NANAIMO BC

NEW DRAFT ZONING BYLAW – REASONS AGAINST

SUMMARY

INTRODUCTION

A plea to you to read this submission

A CASE IN POINT – WENTWORTH STREET

I illustrate how your recent decision to reject a rezoning application on Wentworth Street will be overturned by allowing 'reduced minimum lot size and dimensions for subdivision where a lane exists. In turn, it questions the continuity of your decision and maybe your integrity. I also critique the significant changes presented here for your consideration.

EXCLUSION OF SINGLE-FAMILY AREA OF THE OLD CITY FROM BYLAW

This follows from the preceding part and outlines reasons for retaining the status quo in this area.

RESTRICTIVE COVENANTS AND FAIR APPLICATION OF THE BYLAW

I bring the issue of building schemes and of restrictive covenants to the fore. The potential scale of the matter speaks against the fair application of this new bylaw and further supports exclusions from it.

QUESTIONING THE NEED FOR DENSITY AND VARIOUS GROWTH STUDIES

This part questions the need for intensifying densification at this time and shows how several growth and population studies fail to support it. We should wait on this issue.

THE NEW ZONING BYLAW – WAS THE PROCESS FLAWED?

I examine the time line for the new bylaw and suggest the process was flawed – biased at the outset by development interests, and not in the interests of the populace at large and their neighbourhoods.

ANNEX

Lists further details of: Your comments about Wentworth Street; Probable locations of Restrictive Covenants & Building Schemes; Comments on the background to the new zoning bylaw and the OCP; & growth and population studies.

INTRODUCTION

I hope that you will take the time to read this document and are stimulated to question the issues put before you tonight. Some of you know that I try to be particular and accurate about my research. Probably only a few people in the city, besides some staff members have bothered to educate themselves about the proposed new zoning bylaw. I trust that it includes all of you – this is a very big deal. I sincerely hope that my words will become more than just a dusty piece of the public record.

A CASE IN POINT – WENTWORTH STREET

Firstly, I'd like to thank almost all of you for voting, on May 2nd , against the proposed subdivision of 952 Wentworth Street. In general, your comments indicated that you didn't consider such a proposal was appropriate for the single-family zoned, heritage area of the Old City (please see Annex).

I must make it clear that I'm not trying to re-visit this issue, but simply using it as a site-specific case to question and illustrate the potential application of the new zoning bylaw. This bylaw will act against your previous decision and if you pass the relevant section, it will put in question the integrity of your earlier intent.

To recap, the lot in question currently has a length of 40.226 metres and frontage of 24.23 metres, giving an area of 974.67 square metres (this is probably not untypical of some of the larger lots in the area). However, if subdivision occurred a 1.67 metre strip would be removed from the alley side reducing the frontage to 22.56 metres and the area to 907.49 metres. It seems that a rear right-of-way access from the alley and across another property does not distract from the overall area.

The new bylaw is very comprehensive and quite overwhelming if viewed in generality. There are a myriad of rezoning possibilities, hence my concentration on one location. The bylaw is meant to be user friendly, but I am not alone in my objection to its use of purely metric dimensions (instead of the current metric and imperial). I know that we are technically a metric nation, but many of us have problems instantly conceptualizing in metric, despite being able to do the math conversion.

I can see these new zoning details being applied to raw subdivisions, but the idea of applying them to existing, well-established, built-out areas is cause for conflict and disharmony. Densification brings problems – social and otherwise. Who pays for densification infrastructure?

There have been a number of changes along the way but I think I'm up to speed on the current composition presented for your approval. I draw my quotes from a copy of the Draft New Zoning Bylaw, Bylaw 4000 and the Notice of Public Hearing.

The Notice of Public Hearing states, 'The proposed new Zoning Bylaw is intended .....to reflect the goals and objectives of planNanaimo .....(OCP) which embraces the concepts of complete communities, sustainability and growth management". I believe that I already live in a complete community, sustainability is only accomplished in nature and we have already failed to limit growth. I would sooner have this plan focused on neighbourhood, another concept embraced by planNanaimo (OCP)

The Public Hearing Notice goes on to say that some elements of the existing Zoning Bylaw have been carried over into the proposed new Zoning Bylaw No. 4500, e.g. .....the downtown zones from the existing bylaw have been reformatted within the new bylaw but have not been changed. My question – does this include the Old City single-family area? And if not, why not? Old City zones C17, 18, 19 & 20 have all been saved as DT 8,9, 10 & 11 in accordance with the Old City Neighbourhood Plan, which also covers us.

I do not intend to comment on all of the proposed significant changes, but the following recommendations are of concern – I will take them in the order shown in the Notice.
(1) That the minimum allowable single-family lot size be reduced from 600 square metres down to 500 square metres (instead of the earlier proposal of 450 square metres). The Wentworth Street house has just over 900 square metres, so, in theory, is now safe from the application of this bylaw. Furthermore, the minimum frontage proposed is 15 metres – not enough for two lots here.
(2) However, the next change allows some flexibility in lot sizes (10% variability) within the R1 (single family) zone – provided the average lot size within a subdivision is equal or greater than 500 square metres. Again (with the proviso) so far so good in this case.
(3) But then where a lane exists (as in the Wentworth Street case) minimum lot size and dimensions for a subdivision are reduced. Minimum lot size becomes 395.5 Square metres and lot frontage is down to 10 metres. Where we appeared safe, now we are not. This makes a mockery of your decision to reject the subdivision of the Wentworth Street lot, and leaves the owner free to follow his original desire without rezoning or reference back to you. One notes that Staff supported the original rezoning applications, but changed their minds after the April 14th public hearing, when three proposals were opposed with large petitions and numerous representations. I'm sure we were all aware, a month or so ago, of the potential contained in the draft zoning bylaw. If your decision is not to appear duplicitous, you must reject the lane option in this case for the area.
Driving the lanes is difficult enough already on meeting oncoming traffic, without the added problem of extra traffic backing out from an inside lot. They were designed to access the rear of existing lots, not another tier built behind them. Off-street parking access in these circumstances should be directly off the street if any new subdivision of this area takes place, not through an adjoining lot.
(4) Since it already includes use of accessory buildings, bed & breakfast, board & lodging, daycare, home based business, secondary suite, the idea of allowing a duplex on R1 zoned corner lots between 700 and 1000 square metres is simply a total abnegation of single family zoning – a duplex is a massing of structure – a separate zoning and should be rejected in this area.

(5) I do not like the increase in height of accessory buildings from 4.5 metres to 7 metres in order to allow a 1.5 storey secondary suite within the roof system. It creates an unnecessary overlook into existing properties and an impediment to their views.
(6) The increase for maximum accessory building size from 70 to 90 square metres (13% is achieved at close to 700 square metre lot size) and excluding parking from that portion of the building size calculation is tantamount to allowing another small house. This wasn't the intent when secondary suites were allowed. The RS-1 minimum lot size was 88 square metres. In this area of relatively small houses, if accessory buildings keep on creeping up in size (and height) it we will wonder which is the accessory, and which the house. On the subject of accessory buildings, it doesn't seem to make sense to allow a minimum rear yard setback of 1 metre on a lane, if the long-term objective of the city is to increase the lane width by 1.67 metres on either side.
(7) The increase from 8.25 to 9 metres for single-family dwelling (from grade) and 5 to 5.5 metres (from curb) includes some unknown qualification, as does .....
(8) Allowing front porches to encroach into the front yard setback. Neither of these items seem to be significant problems in a built-out area at this time. Nor does .....
(9) Decreasing maximum allowable side and rear fence heights from 2.4 to 1.8 metres.
(10) As long as R7, non-strata townhouse development is separate from R1, and spot rezoning isn't allowed, it presents no problem to our area. Unfortunately, assumptions can be thwarted by future changed applications.
(11) I am suspicious of 'rewarding sustainable development practices and provision of certain amenities with additional density', but I don't understand the details.
(12 – 16) I have no comment to offer, except (13) – I'm all in favour of urban food gardens, allowing for sale of food grown on-site, as long as the commercial scale or nuisance doesn't get out of hand. But isn't such land use incompatible with densification? Personally, I'd rather see grass, flowers, crops and trees than cement driveways and foundations. Frankly, it's far more environmentally sound to have a productive garden than have that same space taken up with buildings and the access to them.

<u>EXCLUSION OF SINGLE FAMILY AREA OF THE OLD CITY FROM BYLAW</u>

This rather parochial perspective tends to support the need for this area to be excluded from the ramifications of this new bylaw. The essence of the Old City single-family zone is that it is all that remains of the residential area that once surrounded the downtown core. It is a delightful historic neighbourhood that has been almost built out for most of the past century – a bit of a time warp and well worth saving from densification. Much as I personally hate the idea, it might even serve as a tourist attraction for visiting cruise ship passengers, being relatively close to their landing place. Please remember, 80% of the residents recently polled in this area were against destructive densification and loss of flora. That is unlikely to change for a while, so the immediate impact of new zoning should see little resident orientated alterations to the neighbourhood. Eventually though, the impact could be vastly more destructive on our community

.

I have a number of other issues with this bylaw. It may take some time, but you must agree that this is a weighty business, deserving due diligence.

RESTRICTIVE COVENANTS AND FAIR APPLICATION OF THE BYLAW

I have it on good authority that probably all subdivisions built between the 1950s and the 1970s (called building schemes), and in the 1970s and 1980s (called Land Use Contracts) and in some cases as late as the 1990s (or possibly even later) have restrictive covenants. Many (or most) of them may prohibit subdivision of lots and disallow secondary suites. The City of Langley had to take respirictive covenants into account when it was considering allowing secondary suites in 2006. Details are hard to find, but some evidence is available. It is known that Lynburn Estates is in this category and by inference probably all of the other subdivisions developed by the same builder. They tend to be from the old city boundary north and at the present extreme south-west end (please see Annex for some details). The earlier subdivisions were built before the city had embraced them and served as zoning where none existed. These covenants on the owners' deeds now supersede zoning bylaws, leaving large areas in zoning limbo – again a sort of time warp. Earlier covenants have no expiry date, but more recent ones do. Later, since amalgamation of certain areas into the city, it appears that this issue has been largely ignored, even though it potentially puts thousands of single-family homes outside of current and future zoning bylaws.

In this respect, the following principles might be considered – A bylaw must:
respect rights acquired before the making of the bylaw;
respect people's rights to enjoyment of property;
be capable of enforcement;
not be inconsistent with the principles of natural justice (to act fairly and in good faith)

I suggest that this new bylaw is not enforceable because it cannot be applied in a fair and wholesome manner to all the single-family residences in the city. It has to limit its application to the mostly older and in some instances, the newest parts of the city. In a way, it essentially divides between richer and poorer. Many of the covenanted lots are quite large and may be more suitable for subdivision than smaller ones. We need to admit that this problem exists and deal with it effectively.

QUESTIONIONING THE NEED FOR DENSITY AND VARIOUS GROWTH STUDIES

The proposed legislation is about densification. I question the need for it. Studies for predicting
population growth were done in 2006 and 2007 in anticipation of amending the OCP in 2008.

In November 2006, as part of Plan Nanaimo (OCP) Ten-Year review Urban Futures Inc. prepared a population and housing projection for CON for 2006 to 2031:
Estimated CON population in 2006 = 84,600.
(Actual 2006 Census figures were released in March 2007 = 78,692)
Expect population to grow by 30% to 101,400 by 2016 & almost 50% to 118,000 by 2031.
Predicts a housing demand of 53,300 dwelling units by 2031.

In January 2007, the Sheltair Group and Eric Vance produced the City of Nanaimo Land Inventory and Residential Capacity Analysis. The following are quoted from their Conclusions and Recommendations.

"In 2005, it is estimated that there were 32,400 dwelling units and the population was 79,600 (BC Stats) with a theoretical capacity for the city at build-out under current zoning is 68,200 dwelling units which could accommodate 152,800 people. The practical capacity is much lower than the theoretical capacity as many residential areas of the city have been built-out at lower densities than are allowed in the zoning bylaw. The practical capacity is estimated at 55,900 units, corresponding to a population of 124,500 people. The practical capacity is ***believed*** to be the more realistic estimate of capacity in the city. Of the practical capacity, there is a zoned capacity for 30,000 units of single-detached housing.....There is also an estimated capacity of 4,500 secondary suites assuming that 15% of single-detached homes contain a suite. In 2005, approximately 99% of the dwelling units were located within the Urban Containment Boundary. The capacity analysis shows that 97% of the remaining residential capacity is located within the UBC. Urban Futures Incorporated estimates that the housing demand in 2031 will be 53,300 units, which could accommodate a population of 118,000. For single-detached units, Urban Futures estimates the housing demand to be 31,600 units in 2031. Therefore the practical capacity falls short of the projected demand in 2031 by approximately 1,600 units. .....The practical capacity for other ground-oriented units and apartments is sufficient to meet the projected housing demand .....in 2031. In the short- and medium- term (5-15 years) there is sufficient capacity to meet the projected housing demand for all structural types. However, over the longer-term (15 years and beyond), the city ***may*** start to approach its practical capacity for single-detached units depending on the efficiency at which the ***remaining*** residential land is developed. .....it is recommended that the City:.....Review housing demand and supply again in the next 5 to 15 years to identify changes in housing demand and supply that have occurred and determine remaining capacity.... There is sufficient capacity on vacant or underused lands within the UCB to accommodate projected housing demand to 2031, provided all zoned land is developed to its maximum."

These studies were completed before UCB was removed to city boundary and before secondary suites were authorized (and well before they included accessory buildings), and Urban Nodes were in vogue. Since then more subdivisions have been completed and Oceanview (Cable Bay) and Sandstone added to the mix. I found no evidence that another study has been ordered to take these issues into account.

Censuses were conducted in 2001, 2006 and 2011. The results are not immediately released. The 2006 results were released in March 2007. The 2011 will not be released until May 2012. As a consequence, these figures have built in inaccuracies (BC Stats are estimates and admit to discrepancies) – and the effective baseline is a decade old. There may even be a net outflow as people migrate east for jobs. Certainly, building development is near stand-still. Might it be wise, with the economic changes wrought since the new zoning bylaw was started in 2009, to wait until September 2012 for the planned release of

summary data for local authorities. Then we can see if the projections supporting the densification have any merit.

Members of the planning departments of both the City and Region have commented that actual growth is presently only a fraction of that predicted by Urban Futures studies. Is it time to rethink our strategy?

THE NEW ZONING BYLAW – WAS THE PROCESS FLAWED?

Is there a rush to implement the new zoning bylaw? There really doesn't seem a very pressing need, but a perusal of the published time line is quite interesting.

Timeline – New Draft Zoning Bylaw:
2009 – March 5th – staff report to council intention to begin bylaw rewrite
19th – staff internal review
April 8th – internal survey
- **letters** to stakeholders (VIREB,local architects, developers, land-use consultants, Canadian Home Builders Association, DNP, NCCA & NNN
28th – associated zoning compliance bylaw
June 9th – presentation to PNAC
- staff meet *local architects* to critique current bylaw & brainstorm future changes
23rd – staff meet neighbourhood reps & encourage involvement
July 15th – staff meet *developers* to critique & brainstorm
22nd – staff meet *land-use consultants, planners, engineers, designers* to critique & brainstorm
August 10th – zoning bylaw amendment
October 13th – highlights presented to *local architects* for discussion
15th – highlights presented to *land-use consultants*
21st – highlights presented to *developers*
2010 May 12th – staff meet *landscape architects & local developers* to discuss proposed changes
July 13th - draft copy presented to PNAC & goals discussed
14th – draft published on-line
letter sent to all stakeholders (including NNN) re draft on-line
August 9th – report to council
24th – staff meet *chamber of commerce* & discuss draft
September 13th – draft presented to council
21st – PNAC updated
October 16th – highlights presented to NNN
November 10th – highlights presented to ACES
16th – PNAC
24th – meet Westwood Lake NA & discuss
December 13th – meet Departure Bay NA & discuss
2011 January 6th – update info to council
7th – display at City Hall Annex
24th – update to council

25th – release of open houses to media
31st – open house on facebook
February 3rd – newspaper ads
5th – newspaper ads
8th – NIC
10th – Beban Park
15th – update PNAC
16th – Dover Bay school
17th – Chase River fire hall
March 9th – meet SECA
10th – letter to south end commercial owners
15th – report to PNAC
April 1st – consultant hired
5th – meet BC Assessment Authority & discuss
7th – meet Wellington NA & discuss
19th – report to PNAC
20th – media report open house
21st – meet SECA
May 4th – Beban Park
11th – meet ACES
- meet Stephenson Point NA
- meet SECA
17th – submission to PNAC
June 13th – 1st & 2nd reading by Council
23rd – Public Hearing
August 8th – Implementation

Is it just me, or can others see some bias in the creation of this document. By far the largest group is represented by neighbourhoods. In 2009, it was the other stakeholders, those with vested interests that staff met and encouraged to critique current bylaw and brainstorm future changes. Neighbourhood representatives were merely encouraged involvement (whatever that means). Later that year, highlights were presented to these same stakeholders for discussion. It was to be another year before the Nanaimo Neighbourhood Network was presented with the highlights. At this meeting, in response to a question about the Old City area, I was told that I needn't worry as the neighbourhood plan protected us. Perhaps you'd like to make his comment true. Subsequently, there was some discussion with neighbourhood groups but the document was already in play. The larger population had very little say in how these changes were formulated. You might remember that in your deliberations.

Earlier this year, the local press reported that there are 62,323 voters registered in Nanaimo. They also stated that there were sweeping changes in one of the city's largest and most complex bylaws, that could be getting a complete rewrite and if adopted it will change the face of Nanaimo in years to come.
The city held 5 open houses to explain the new bylaw. They were very poorly attended. Initially, only 37 surveys were returned by the public – a few more came later. However,

staff built up pie charts to indicate the percentage in favour of the changes. They should have recognized the confusion or malaise and ditched this whole project at this time. The process of developing this new bylaw has been flawed. You might ask the question – 'Is the exercise of power for a true municipal purpose, i.e. for the primary purpose of benefiting the ratepayers of the community (who have stayed away in droves)?' Maybe the householders want things to stay the same.

ANNEX

Extract of some of your comments opposing subdividing 952 Wentworth Street (taken from video):
" Coach houses and secondary suites serve intent, without overkill".
" This area, this kind of area – several areas like that – conforms to density in OCP – is the existing older house encroaching on the lane – want design, need to do more sensitively – need to see design element, image to hold developer to".
" Too vague, single family – mixed .... tapering down. Neighbourhood is concerned. Form and Character – process flawed. The type of infill in this area is form and character. No downtown design guidelines – could put in really ugly boxes. Very beautiful area – bring down tone of area. Problem with access from alleyway".
" Number of people present – petition was presented. Concern, why access off alley – if it's such a good deal why not come off Wentworth".
" Want artists conception".
" Need more information. Does infill fit this particular neighbourhood because of its heritage value? Have alley issues been addressed?".
" In favour of Infill and densification, including Old City Quarter. Considerable number of residents expressed concern – at this point, don't know what is intended. Want area to stay same. Too vague –can't support it".

Some of the subdivisions suspected of having covenants believed to limit rezoning and the possibly of secondary suites (built between the 50s & 70s) with number of lots where known (and acreage):
Beach Estates – 88+; Cilaire – 455 (92); Cinnabar – ?; City (Divers) Lake – 550; Country Club Estates – 300 (300); Highlands (Departure Bay); Five Acres Lands – ?; Forest Park Estates; Green Lake – ? (130); Hawthorn Heights – 69+; Lakeside Park (Divers Lake) – 100 (110); Lynburn – 400 (330); Morningside Beach Properties – 171+ (332); Smugglers Hill – 43+; Somerset (Wellington) – 68+; Woodlands – 50;
This total alone may well exceed 3000 lots.
Sources: CHIEF STRAIGHT TONGUE by Donna Dash; GREAT NATIONAL LAND & INVESTMENT CORP. LTD. Annual Reports; 2010 BCSC 1624 – Property Law Act, RSBC 1996, C.377 & Re: Lot 71, Section 1, Nanaimo District, Plan 9500 (Lynburn Estates); Hearsay.
Some streets in the city mentioned on the internet in connection with restrictive covenants: Amblewood Lane; (*) Argyll Avenue; Dunbar Road; Greenway Roadway; (*) Highland Boulevard; (*) Montague Avenue; Sherwood Drive; Stephenson Point Road. (*) Denotes pertinence. Some of the rest may be too.

Land Use Contracts were added in 1971 (section 702a) to the Municipal Act. The municipality enters into an agreement with a landowner to develop and use a tract of land according to certain agreed terms and conditions. By virtue of the Municipal Amendment Act 1977, the provincial government repealed LUCs and introduced Development Permits.

We are told that "In response to the adoption of the city 's 2008 OCP, in 2009 the CON Planning Department introduced a draft new Zoning Bylaw to update the current zoning bylaw (1993) and reflect the goals of the OCP – (1) managing urban growth, (2) building a more sustainable community, (3) encouraging social enrichment, (4) promoting a thriving economy, (5) protecting and enhancing our environment and (6) improving mobility and service efficiency, (7) in the hope of creating a more concise and user-friendly bylaw, as well as (8) providing more opportunities for affordable housing and (9) embracing the concept of complete communities. (10) The overall vision will allow for a wide range of housing options while maintaining the unique character of neighbourhoods."

Of the proposed changes the following could apply to the existing Old City neighbourhood (there may be more), and are stated to meet the highlighted goals of the OCP, as shown:
A – Reducing single family residential lot size from 600m2 to 450 m2.
(meets 1,2,3,4,5, & 6)
B – Creating a new zone (R8), which will allow for fee-simple townhouse ownership.
(meets 1, 3 & 4)
C – Reducing the minimum lot size and dimensions required where a lane exists
(meets 1,3 & 6)
D – Allowing front porches to encroach into the front yard setbacks.
(meets 3)
E – Prohibiting parking between the street frontage and the front face of a building
(meets 3 & 6)
F – Allow detached secondary suites above a garage on lots greater than 800m2.
(meets 1, 3 & 4)

One may argue that:

(1) Urban growth management is at the periphery not the core. UBC was the tool.
(2) Community is no longer sustainable as an effective community after a certain density. Density was supposed to be in nodes and corridors.
(3) Social enrichment is degraded after a certain density.
(4) The neighbourhood has little or no effect on the economy.
(5) An environment of mature gardens and trees is not enhanced nor protected by infill and increased density.
(6) Service efficiency may be improved with density but only in core nodes. Pedestrian mobility is encouraged by openness and tranquility.
(7) User friendly for whom? Most residents have little use for zoning changes.
(8) It remains to be seen how affordable any housing stock will be if the demand is as high as the density suggests.
(9) What is a complete community? Having a completely effective neighbourhood next to downtown core residential density and commercial services seems ideal.

(10)Having a wide range of housing options will not maintain the unique character of the neighbourhood.

Social Development Strategy For Nanaimo (May 2003) by John Talbot & Associates
Includes RDN (1997) Growth Management Plan (25 years forward) & Update to Plan Nanaimo (August 2002) by Urban Futures Inc (Population & Housing Projections for RDN & CON – 2001-2031.
CON Population Indications (Stats Can.)
1986 = 49,629
1991 = 60,129 – increase of 22.6% from 1986
1996 = 70,130 – increase of 16.6 % from 1991
2001 = 73,000 – increase of 4.1 % from 1996.
"There may be discrepancies between BC Stats and Census figures. Projection
Also, the following population figures were offered in support of the RDN
Regional Growth Strategy (Urban Futures Inc. 2007 & Stats Can. 2006)
"information is based on a number of assumptions which may or may not prove correct."

PROJECTED	ACTUAL
1976	
1981 = 77,624 – increase of 25 %	
1986 = 82,714 – increase of 7 %	84,819
1991 = 102,411 – increase of 24 %	104,465 – increase of 23 %
1996 = 121,783 – increase of 19 %	126,375 – increase of 21 %
2001 = 127,016 – increase of 4 %	132,414 – increase of 5 %
2006 = 138,631 – increase of 14 %	144,317 – increase of 9 %
2011 = 158,767 – increase of 10 %	
2016 = 175,263 – increase of 10 %	
2021 = 192,117 – increase of 10 %	
2026 = 207,680 – increase of 8 %	
2031 = 220,680 – increase of 6 %	
2036 = 231,184 – increase of 5 %	

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Our File No. W43208-1C

April 18, 2011

By Email: david.stewart@nanaimo.ca

City of Nanaimo
455 Wallace Street
Nanaimo, BC V9R 5J6

Attn: David Stewart, City Planner

Dear Mr. Stewart:

Re: 333 Haliburton Street, Nanaimo, B.C. (the "Property")
Proposed New Zoning Bylaw
Your File: ZA1 - 33

We are the solicitors for the registered owner of the Property, 0756017 B.C. Ltd. Our client has provided us with a copy of your letter dated March 14, 2011 concerning a proposed new zoning bylaw for the South End Neighbourhood area of Nanaimo. The purpose of this letter is to provide you with formal written notice that our client objects to any change in zoning to the Property which would have the effect of limiting its future use and value.

We have been informed that the zoning proposed for this I2 Property is residential, which would limit its future use and have a potentially negative impact on its future value. Most importantly, the proposed zoning change would limit the potential market for this Property to residential buyers. Our client would not be opposed to a zoning change, provided that such zoning change includes the existing I2 uses as well as other uses, effectively increasing the marketplace for this Property.

We trust that you will give serious consideration to the concerns of our client. As you have suggested, we will contact you after the meeting on April 21st for further updated information.

Yours truly

HEATH LAW LLP

WENDY M. CLIFFORD
WMC/æ
Enclosures