

MINUTES OF THE PUBLIC HEARING HELD PURSUANT
TO THE LOCAL GOVERNMENT ACT IN THE BOARD CHAMBERS
OF THE REGIONAL DISTRICT OF NANAIMO, 6300 HAMMOND BAY ROAD,
NANAIMO, BC, ON THURSDAY, 2006-MAR-16, TO CONSIDER
PROPOSED AMENDMENTS TO THE CITY OF NANAIMO
"ZONING BYLAW 1993 NO. 4000"

PRESENT: Mayor G.R. Korpan
Councillor L.D. McNabb Councillor M.W. Unger
Councillor L.J. Sherry Councillor C.S. Manhas
Councillor M.D. Brennan Councillor W.L. Bestwick
Councillor W.J. Holdom

Staff

E.C. Swabey, Director, Planning & Development, DSD
D. Lindsay, Manager, Planning Division, DSD
P. Masse, Planning Clerk, Planning Division, DSD

Public

There were approximately 50 members of the public present.

CALL TO ORDER:

Mayor Korpan called the meeting to order at 7:00 p.m. Mr. Lindsay explained the required procedure in conducting a Public Hearing and the regulations contained within Section 892 of the Local Government Act. Mr. Lindsay read the item as it appeared on the Agenda, adding that this is the last opportunity to provide input to Council before consideration of Third Reading to Bylaw No. 4000.389 at Council's next regularly scheduled meeting of 2006-MAR-27.

1. BYLAW NO. 4000.389:

This bylaw, if adopted, will add site specific text amendments for property located at 38 Front Street in order to permit a multiple family dwelling development. The applicant is proposing to increase the height of the previously approved development from 49.0 metres to 18 storeys 63.4 metres, as measured from Front Street, and to increase the maximum floor area ratio from 5.30 to 6.30. The subject property is legally described as LOT A, SECTION 1, NANAIMO DISTRICT, PLAN VIP63943.

Mr. Bill Wright, CAPE Development Corporation – Applicant

- Provided an overview of the currently approved application and noted that construction is underway.

- Noted that a shadow analysis study is complete and ready to view, which indicates differences in shadows between the previously approved plans versus the proposed plan.
- Noted that all building challenges to date have been met with viable solutions, and that this proposal is the result of cost issues that are best rectified by ensuring all obligations are met with due diligence by adding two additional floors to the project. Believes this provides a level of comfort and assurance to investors.
- Stated that 80% of costs are in to date, noting that this proposal will ensure CAPE can meet their obligations and provide the investors with their new homes.
- Confirmed that almost all units have been sold and that CAPE has received many calls of support from both investors and people who encourage this development for the City of Nanaimo on the whole.

Councillor Holdom asked for clarification on the proposed height variance.

Mr. Wright confirmed that the total height variance being requested is 22' 6" (see "Schedule 'A' – Submissions for Bylaw No. 4000.389").

Mr. Lindsay further clarified the issue by stating that the public hearing Notice and applicable zoning indicate a height of 49 metres, but a previously approved height variance within the Development Permit allowed the development to go from 13 storeys to 16 storeys.

Mr. Fred Pattie, 2830 Fandell Street – Opposed

- Believes Staff's recommendations regarding this application should be adhered to.
- Submitted a shadow study analysis (attached as part of "Schedule 'A' – Submissions for Bylaw No. 4000.389") on behalf of Debra Bodner that illustrates, in his opinion, that the shadow study analysis completed on behalf of the applicant is incorrect, adding that this building will not allow for sunlight on the seawall.

Councillor Unger asked for clarification regarding the opposing shadow study analyses.

Mr. Lindsay stated that two different approaches were taken in relation to the shadow study analyses, noting that the applicant's architect submitted a shadow study that was conducted on March 21st and September 25th (Spring and Fall equinox) which are typical times used for shadow studies on high rise buildings. The timing of when each study was done would affect its outcome. Mr. Lindsay noted that the time of day would also affect the results of a shadow study, adding that it would seem timing was the cause for this discrepancy.

Mr. Wouter Bouman, 3262 Poppleton Road – In Favour

- Believes it is commendable that CAPE is willing to continue with this development and honour the contracts with its investors even with unforeseen budgetary issues, adding that most construction of this size inevitably runs into budget problems.
- Believes the citizens of Nanaimo should be grateful for the removal of the 15-year old "eyesore" on the waterfront. This will result in more taxes for the City and more businesses in the downtown.

Ms. Margaret Hedges, 150 Promenade Drive – In Favour

- Potential purchaser of a unit in Pacifica.
- Initially unhappy with the concept of an additional two storeys on the development, but after examining the proposal, and considering her hopes for Nanaimo's waterfront and how many citizens use the seawall, she realized that Nanaimo needs to work with CAPE to ensure the development is a focal point for the downtown and the seawall. Believes it would be counteractive to obstruct the development at this point.
- Does not believe the additional two storeys will have a negative impact.

Mr. Jim Hedges, 150 Promenade Drive – In Favour

- Believes this development will be very positive for Nanaimo and its waterfront.
- Asked for clarification and assurance from the applicants regarding potential owners and how this variance will impact homes (i.e. ceiling heights, finishing).

Mayor Korpan asked that the applicants address Mr. Hedges' concerns outside of the Public Hearing process.

Mr. Roger Lutes, 30 Cavan Street – In Favour

- Future home owner in Pacifica.
- Proud of Council and how it is "growing the City".
- Encourages Council to grant these concessions to the applicant in order to continue their professional refurbishing of an old "eyesore". Noted that this is a difficult project and that he believes they are doing a good job.
- Believes the modifications will be positive for home owners in Pacifica as they will share in the operating costs of the building.
- Good for the downtown area as there will be more families living and shopping in the area.

Mr. Lawrence Rieper, 990 Campbell Street – Opposed

- Was present at past Council and public hearing meetings when variances were approved to allow the current development; he was opposed then and is opposed now.
- Believes the "rules" of the OCP should be adhered to and asked how many times the developer would be returning to Council asking for more and different alterations to their original plan.
- Noted that business is a risk with gains and losses; it is not up to the citizens to accommodate the developers or to assure them with "insurance".
- Has managed to "live with the mess" on the seawall and he for one would not care if this last attempt to change it "failed".
- Believes the development will block views for many and that the City should have bought the property years ago and turned it into a park.
- Believes a possible conflict of interest exists for Mayor Korpan.

Mr. Ron Bolin, 3165 King Richard Drive – Opposed

- Applauds CAPE for the courage in removing this “eyesore” from Nanaimo’s waterfront.
- Recognizes Staff’s professionalism and their recommendation of voting against this height variance. Believes it will lead to “more requests from more developers” if it is approved.
- Does not believe there is adequate reasoning as to why an additional two storeys be added to the project.

Mr. Edwin Turner, 51 Kennedy Street – Opposed

Mr. Turner’s submission is attached as part of “Schedule ‘A’ – Submissions for Bylaw No. 4000.389”.

Mr. Randy Aitken, 250 Pine Street – Opposed

- Resides within the view shed in Nanaimo.
- Believes this application should be denied as a matter of principle; adding that one variance is enough for the site.
- Stated that this would set a dangerous precedent for other developers if Council was to approve this application.

Mr. Erik Ricker, 3052 Hammond Bay Road – Opposed

- Mr. Ricker stated his belief that conflict of interest issues apply to Mayor Korpan in the form of a contribution from CAPE to Mayor Korpan.

Mayor Korpan stated that “an election contribution, if fully disclosed, does not, under the laws of British Columbia, constitute a conflict of interest”. Mayor Korpan added that Mr. Ricker’s interpretation of these laws is defamatory and that any suggestion of conflict of interest is “outrageous”. Mayor Korpan asked that Mr. Ricker address the rezoning application at hand.

Mr. Ricker asked that Mayor Korpan turn the chair over to another member of Council who was not “partisan” in order to discuss the issue properly. Mr. Ricker suggested that Mayor Korpan “controls the agenda” and that he does not believe that the Mayor is in conflict with the Community Charter but rather in conflict with the City’s own policy.

Mayor Korpan asked that Mr. Ricker address the rezoning application on the agenda for this evening’s Public Hearing, adding that if he has concerns over other issues they should be raised at the appropriate time.

Mr. Ricker asked that the record show that the Mayor’s comments were “abusive”.

Mr. Ricker’s submission is attached as part of “Schedule ‘A’ – Submissions for Bylaw No. 4000.389”.

Mr. Jim Richardson, 330 Machleary Street – Opposed

- Noted that many of those in support of this application are investors.
- Does not believe that the City should compensate for the developers lack of a “good business plan” adding that all business owners need to make their own decisions and then deal with the ramifications on their own.
- Believes City Staff should be listened to as they recommend not approving this application; he is disturbed by revisions that have been approved to the plan to date, even though negative citizen input was received at previous public hearings; believes this will set a dangerous precedent for other developments in the City.

Mr. Gord Fuller, 604 Nicol Street – Opposed

- Believes City Council set a precedent by allowing Triarc to add height to the hotel portion of the NNC which brought CAPE to this current application. Believes the community contribution of \$100,000 towards affordable housing is not sufficient and should not be considered as a part of this application.

Mr. Fred Taylor, 204 Emery Street – Opposed

- Supports City Hall Staff on this issue.
- Raised questions with the validity of the architects’ shadow analysis regarding the time of day when compared with the student analysis submitted by Debra Bodner.
- Noted that those in favour of this application have a financial interest in the project in his opinion.

Councillor McNabb asked for clarification on the impact of the shadow study to this proceeding.

Mr. Lindsay noted that the analyses can and will be verified by Staff post-hearing, but wanted to state that the study produced by the applicant’s architect is considered valid by Staff, adding that the City’s GIS staff has also completed computer modelling of the downtown. The City’s shadow analysis concurs with that of the architects, and accurately reflects the shadows at the noted dates and times.

Councillor Holdom noted that both analyses could be correct due to the time of day when the studies were done.

Mr. Jerry Pool, 5949 Tasha Place – In Favour

- Life long resident of Nanaimo.
- Anticipated the site being developed and improved for years and is happy with CAPE’s efforts; the excitement generated from this development has been prolific to the downtown area; believes the entire City will benefit from this project.
- Views will not be affected in a detrimental way; instead believes this will be a jewel of the downtown.

Thirteen submissions were received prior to the Public Hearing and are attached as part of "Schedule 'A' – Submissions for Bylaw No. 4000.389".

There were no further written or verbal submissions received for this application.

MOVED by Councillor Sherry, SECONDED by Councillor Holdom that the meeting be adjourned at 7:58 p.m.

CARRIED

E.C. Swabey
Director, Planning & Development
DEVELOPMENT SERVICES DEPARTMENT

/pm
Council: 2006-MAR-27
G:\Devplan\Files\Admin\0575\20\2006\Minutes\2006Mar16PHMinutes

Schedule “A”

Submissions

For

Bylaw No. 4000.389

To: The Honourable Mayor Gary Kozan and all
Nanaimo City Council Members.

I will start by saying this letter is completely unsolicited and I have nothing to gain by its content.

As a result of purchasing two units at the Pacific complex, I have had the opportunity to become very familiar with the Cape Construction Company. I have bought and sold many investment ^{properties} in the United States prior to my dealings with Cape. I have found them to be very professional, straight forward and a pleasure to deal with. I can tell you that on all my visits to the site, I have overheard nothing but praise and compliments about the project from people on the boardwalk (seawall). It also speaks volumes about Cape, that people were able to use the new boardwalk on schedule and loving it. Due to the extra cost of unforeseen work necessary on the project and Cape's commitment to build a quality project, my wish would be that you grant permission for the two extra floors that Cape is requesting. I feel two extra floors will have little impact on the water front and views. There are presently other taller buildings and the only way to make future projects financially viable on the waterfront is the high-rise format.

Cape Construction should be commended due to their courage and vision to take on such a risky project with such a long history of failure.

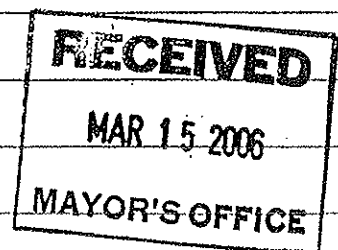
Sincerely,

B. Griffiths

BRYAN GRIFFITHS

MORRO BAY, CALIFORNIA

City Manager	<input checked="" type="checkbox"/>	Mayor & Council	<input checked="" type="checkbox"/>
Deputy City Mgr.	<input checked="" type="checkbox"/>	Directors	<input type="checkbox"/>
GM Admin Secs	<input type="checkbox"/>	Fire	<input type="checkbox"/>
GM Comm Secs	<input checked="" type="checkbox"/>	RCMP	<input type="checkbox"/>
GM Dev Secs	<input checked="" type="checkbox"/>		
FOR ACTION	<input type="checkbox"/>	FOR INFO	<input type="checkbox"/>
Ted S; Toby S.			



Deborah Jensen

From: Diane [ddenton@shaw.ca]
Sent: Thursday, March 16, 2006 9:09 AM
To: Public Hearing
Subject: ZONING BYLAW 1993 NO. 4000"

Dear Sir, Re:

The **Special Public Hearing** on the proposed amendments to the City of Nanaimo D to allow another two stories--**16 storeys (49.0 metres) to 18 storeys (63.4 metres)**--to be built on top of Cape Development's waterfront condo tower (old Malaspina Hotel) is scheduled for this Thursday, March 16, 7:00 pm, in the **Board Chambers of the Regional District of Nanaimo, 6300 Hammond Bay Road.**

***Please read this at the meeting in opposition of this amendment.**

I am opposed to the above amendment because it will set a precedent for other high rise developments in downtown Nanaimo. As a property owner in the "old city" and an ex realtor, I am aware that property values are also based on ocean views. If developers are allowed to block "my ocean view" and other peoples ocean view this will decrease the values on our properties. Added to this is the eye sore it will be for other people who come to downtown and instead of seeing our beautiful harbor views, see tall ugly buildings. There is also a shadow or blocking light that further height would cause. The hole on Commercial street is evidence of this. With the buildings gone there is sunlight downtown. We have height limits for a reason. Cape Development was aware of them "prior" to getting involved in building the waterfront condo tower. I am aware that profit is very important in development but not at further sacrifice of my and other peoples "ocean view" and light. Sincerely Diane Denton

Deborah Jensen

From: Penny Mitchell [pmitch@shaw.ca]
Sent: Wednesday, March 15, 2006 6:59 PM
To: Public Hearing
Subject: public Hearing on Cape Development-ammendment to bylaw

I sent the following e-mail to the mayor and council on March 13. I would like this read into the record please.

Thank-you,
Penny Mitchell
711 Wentworth St.
Nanaimo.
753-2148

With Respect:

I am unable to attend the public forum in which the height restriction to the Cape Development downtown will be discussed. I wanted to take this opportunity to express my objection to increasing any height allowance on this project.

The company has cited increased construction costs as a reason to increase the height of the building to ensure a profit for the company. They are already receiving 'cost breaks' at the expense of taxpayers in this community by not paying the DCC's. I believe they can act with the sense of other builders in this community who are not receiving DCC breaks and budget accordingly or charge the buyer accordingly, to cover costs. Any further subsidizing from taxpayers is absurd and inappropriate. The company's "offer" to contribute \$100,000 in lieu is insignificant to the costs taxpayers will absorb.

It is time for this council to act in the interests of the taxpayers they are supposed to represent and not pander to developers and businesses who by the very nature of their business should plan to have a viable and profitable business without public subsidy.

Regards,
Penny Mitchell

3/16/2006



Nanaimo Old City Association

c/o 451 Kennedy Street
Nanaimo, BC
V9R 2J4
753-3904

15 March 2006

City Of Nanaimo Development Services
455 Wallace Street
Nanaimo, BC
V9R 5J6

Public.hearing@nanaimo.ca

Re: Bylaw No. 4000.389
38 Front Street
Increase Height from 16 Storeys to 18 Storeys

Simply put, this Association has already gone on record several times opposing zoning beyond the overall 16 story limit on the waterfront.

Now we have a developer yet again coming to the table requesting a further height increase. Although the promise of an extra \$100,000 contribution to affordable housing is commendable, the Harbour Front Development's request comes at the cost of compromising our waterfront zoning. It is a price we are not willing to pay!

Furthermore, to suggest 8 extra units would make such a difference to the population downtown that it would thereby justify the height increase, is ridiculous. In addition, everyone knows that cost overruns are a fact of life for developers and should be a consideration built into every project. Poor planning on the part of the developer, however, does not translate into allowing further concessions to be made to the zoning of our waterfront, even if they attempt to sweeten the pot.

We note that City staff are "recommending that the bulk and height of the proposal exceeds what the zoning bylaw for the area allows for high rises". We cannot emphatically agree more!

Perhaps this time, Council will listen to staff, to this Association and to the public and deny this application.

Yours sincerely,

NANAIMO OLD CITY ASSOCIATION

Rob Humpherville
President

Deborah Jensen

From: marv worden [marvworden@shaw.ca]
Sent: Wednesday, March 15, 2006 8:50 PM
To: Public Hearing
Subject: 38 Front Street

Dear Council members

I request that Council reject the rezoning application to permit the addition of two stories to the Cape Development's condo tower. Bylaws must be established sensibly and supported consistently to ensure that our city develops in a planful and orderly manner. To do otherwise is to compromise the whole concept of planning.

**Marv Worden
2021 East Wellington Road
Nanaimo BC V9S 5V2**

marvworden@shaw.ca



c/o 510 Hecate St. Nanaimo, B.C. V9R 4K2

Via Fax

March 13, 2006

To:
City of Nanaimo,
Development Services Department,
455 Wallace Street,
Nanaimo, B.C. V9R 5J6
Fax 755-4439

Re: Public Hearing
Bylaw 2006 NO. 4000.389
38 Front St. Nanaimo, B.C.

At the Neighbours of Nob Hill's March 3, 2006 meeting there was unanimous opposition to the above rezoning application, supporting the position of the Nanaimo Old City Association.

We are opposed to this application because:

It does not reflect the requirements of the downtown zoning, in that the bulk and height of the proposal exceeds what the zoning bylaw intends.

There has been, and continues to be, a large contingent of opposition to high rise towers on the waterfront, which the previous Council ignored.

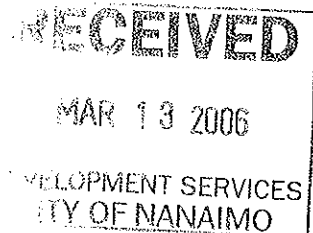
The proposal does not increase the downtown population substantially, and

Increasing costs were apparent for some time in the construction industry, and therefore the citizens should not be expected to bear any onus due to poor planning on the developer's behalf.

Yours Truly

David Froom
For Neighbours of Nob Hill

cc: N.O.C.A.



Deborah Jensen

From: TOM BEBYCK [tobebyck@shaw.ca]
Sent: Saturday, March 11, 2006 9:05 PM
To: Public Hearing
Subject: SUSPECT:: Bylaw No 4000.389

Bylaw No 4000.389, File No. RA160, 38 front street rezoning

Dear Mayor and Nanaimo City Council:

My wife and I will be future residents of unit 711 at 38 Front Street, Pacifica. We feel for a number of reasons that Nanaimo City Council vote to approve rezoning for 38 Front Street and allow Cape developments to add another 2 stories to the Pacifica project. It is our understanding that Insight has already received approval to build a 24 story condominium next door. A very short distance North on front Street exists a Highrise Apartment exceeding the height that Cape Developments is proposing for Pacifica. The Beacon nearby on Promenade Drive a is a jewel in Nanaimo's landscape and is 27 stories high. Currently there is a demand for housing in Nanaimo particularly in the downtown area. Pacifica will also be a Jewel on Nanaimo's Harbour and adding 2 stories will be a benefit to the City. Please vote to approve. Thank you for letting us express our views to City Council.

Sincerely,

Tom & Olivia Bebyck

Deborah Jensen

From: webmaster@nanaimo.ca
Sent: Wednesday, March 08, 2006 11:42 AM
To: Public Hearing
Subject: SUSPECT:: Public Hearing Submission

A Online Public Hearing Submission has been made:

Name: Neil Surry
Address: 3075 Rock City Road
Subject: 4000.389

Comments:
This bylaw amendment should not be approved.

The company that applied for this variance has already had a variance approved to increase the height of its structure. This height increase is inconsistent with the Downtown Plan. Increasing the height further will move this structure further out of compliance with the downtown Plan.

If this height increase is approved it will significantly impact the future development of the downtown area. Properties behind and adjacent to this property will have no access to water views without pressuring the city for further variances. This would lead to a diminished access of all city residents to views and access within this area.

I feel that the compensation offered by the company for this variance is inadequate. They are offering \$100,000 when they have the potential to gross \$3.2 million dollars (8* \$400,000 per suite).

The cost to the city of this variance is too high for the benefit. While I appreciate the desire to develop the downtown, I think city council has to look at the high cost of this proposal both in qualitative and quantitative terms.

Penny Masse

From: Marilyn Smith
Sent: Thursday, March 16, 2006 3:11 PM
To: Jerry Berry; Al Kenning; Andy Laidlaw; Brian Mehaffey; Toby Seward; Ted Swabey; Penny Masse
Subject: FW: Cape Developments

Received for March 16th Public Hearing.

Marilyn

-----Original Message-----

From: Turley's Florist [mailto:sales@turleysflorist.com]
Sent: Thursday, March 16, 2006 2:59 PM
To: Bill Holdom
Cc: Mayor Gary Korpan; Bill Bestwick; Diane Brennan; Larry McNabb; Jeet Manhas; Loyd Sherry; Merv Unger
Subject: Cape Developments

Dear Mayor and Council

I am going to try to make it to the Public Hearing this evening but in the event I am unable to, I thought I should reinforce the importance of this project to Nanaimo. From an environmental and a financial point of view we must encourage increased density with in our city particularly in the downtown and the other centers indicated in Plan Nanaimo. I believe that vertical development is a far more pleasing and a less confining means of achieving high density. My understanding of Cape's request is that they wish to add 2 floors or 22.5 feet to the height of the building. This is still lower in height than the proposed Insight tower and the building currently at 154 Promenade. We should not approve the request based solely on Cape Development's proclaimed need to make a profit but rather the Downtown's need for higher density and the lack of impact this 22.5 feet will make on the street scape of Front St and the view from the water.

I would also like to add that at our booth at the Garden Show ths weekend I met one of the purchasers of a Pacifica unit who is currently working and living in California but plans to move and live in the unit when he retires in 2 years. He spoke very positively of the experience he had in working with Cape Developments. He also asked about volunteer opportunities in the Downtown area and I was happy to provide a list for him.

Thank you for your consideration.

Jim Turley

16 MARCH 2006.

TO: MAYOR & CITY COUNCIL MEMBERS

FROM: ANNE MACMILLAN 504 BLUE GIRL WAY V9S 5T6 NANAIMO

RE - RE-ZONING APPLICATION - HARBOURFRONT DEVEL. CORP.

I AM NOT IN FAVOUR OF ALLOWING THE HARBOURFRONT DEVELOPMENT CORP. TO ADD AN ADDITIONAL TWO STOREY'S TO THEIR PROJECT ON FRONT ST.

COUNCIL HAS ALREADY AUTHORIZED VARIANCES FOR THIS PROJECT FROM THE ORIGINAL 13 STOREY'S TO 15, AND THEN AN AMENDMENT TO ALLOW FOR 16 STOREY'S. WHAT'S NEXT? ANOTHER TWO STOREY'S DOWN THE ROAD?

THE PROJECT ALREADY DOES NOT COMPLY WITH PLANNING FOR HIGHRISE DEVELOPMENT IN THE DOWNTOWN AREA. THE FACT THAT THE DEVELOPER IS OFFERING THE CITY \$100,000 TOWARD SOCIAL HOUSING, IN THE HOPE THAT HE WILL RECEIVE A POSITIVE RESPONSE TO HIS REQUEST, DOES NOT SIT WELL WITH ME EITHER.

COUNCIL SHOULD HEED THE ADVICE OF CITY STAFF WHO HAVE EXPERTISE IN THIS MATTER. IN ADDITION COUNCIL NEEDS TO REMEMBER THAT THERE WAS LITTLE SUPPORT FOR HIGHRISE DEVELOPMENT ON THE WATERFRONT.

WITH RESPECT.

Anne Macmillan

Penny Masse

From: bmarshall@island.net
Sent: Thursday, March 16, 2006 3:12 PM
To: Public Hearing
Subject: Proposed Amendment March 16, 2006

Public Hearing:

Re: The Special Public Hearing on the proposed amendments to the City of Nanaimo "ZONING BYLAW 1993 NO. 4000" to allow another two stories--16 storeys (49.0 metres) to 18 storeys (63.4 metres)--to be built on top of Cape Development's waterfront condo tower (old Malaspina Hotel)

I am NOT in favour of this bylaw amendment. The proposed densities for downtown nanaimo are already excessive for the infrastructure to handle traffic, policing, fire and water. Council has already increased densities on other properties. They did not need to increase the height by TWENTY NINE PERCENT!!! and the number of units in this property.

B. Marshall
3323 Kite way,
Nanaimo, B.C.
V9t 4P8

This message was sent using IMP, the Internet Messaging Program.

Penny Masse

From: John Hryhorka [rrifwise@shaw.ca]
Sent: Thursday, March 16, 2006 3:33 PM
To: Public Hearing
Subject: Adding two more stories

I wish to express my opinion towards the hearing of the proposed amendment allowing two more stories on top of the Cape Development condo tower downtown.

Please be advised that I am OPPOSED to this addition.

1. There have been too many changes already. Enough is enough! Cape has gone by the rules, taken their risk, and should live with it. If Cape is not able to make ends meet under the existing status, then they should do what some developers have done in Victoria.....walk away, refund the monies, and wait for another opportunity. Cape can believe that there will be a better opportunity for them in the future, or they can sell to someone else. A line must be drawn somewhere.....and that line has been drawn already.
 2. Even two stories will affect some folks who had not planned on having that particular view wiped out. Why should even a handful of residents suffer from a change of the rules.
 3. More people into the high rise adds to the folks in this density area. A line should be addressed and stayed.
 4. Developers should only receive what they planned for. That is what taking a risk is all about. If the property needs to sit for another 20 yrs, so be it. I will believe that a reputable developer with reputable pockets will come along, and then plan accordingly.....maybe we will then get much larger units, at an upscale price, done according to the existing height definition, and this will be better for the community, as we would have high net worth residents spending their money downtown, and the building would be considerably more upscale.
- Count me as OPPOSED.
Respectfully
John Hryhorka
downtown Nanaimo resident.

3/16/2006

Penny Masse

From: The Davidsons [ajkdavidson@shaw.ca]
Sent: Thursday, March 16, 2006 3:54 PM
To: Public Hearing
Subject: ZONING BYLAW 1993 NO. 4000

We would like to register our opposition to the proposed rezoning at the Cape Development waterfront condominium tower on the site of the old Malaspina Hotel. There were many persuasive submissions given at the original rezoning hearing to indicate that a wall of high rise buildings are not suitable for Nanaimo's downtown. The developer was given the zoning he originally requested and should not be able to request additional height merely because the real estate market indicates that this would give him additional profit.

Jennifer & Allan Davidson
2730 Elk Street
Nanaimo, BC
V9S 3T9

3/16/2006

CAPE RATIONALE

Following is a brief description of the proposed revisions that our client has asked us to put forward for your consideration.

The proposed revisions can be separated into two parts. The first is an increase in density that allows for F.A.R. (Floor Area Ratio) area within the currently approved development; the second is the addition of two floors, of 4 units per floor, which would increase the F.A.R. and height of the building.

DENSITY INCREASE

The increase in density within the building has 3 main components that create F.A.R. All of these increases in density occur within the existing building structure and approved development and do not add any additional mass to the building. The majority of these increases occur underground and, based on the zoning definitions, have to be included in the F.A.R. total.

The first component is the creation of storage rooms within the existing parking structure and within the new areas created in the two floors below Front Street. These areas would be assigned as storage spaces/lockers for the residential units within the building. The total area for these storage spaces is approximately 21,750 sq.ft. (F.A.R. 0.57).

The second component in density is created by the need to raise the townhouse portion of the building to avoid undermining the existing footings of the parkade (uncovered during excavation) to minimize construction and geotechnical difficulties. This results in the crawl space within the upper level of townhouses exceeding the maximum height allowed for exclusion from F.A.R. This adds approximately 2,800 sq ft (F.A.R. 0.07).

The third component in density is created by the enclosure of deck space for the A units located within the existing concrete structure of the building. This revision creates a small den area adjacent to each master bedroom and reduces the distance of the bedroom windows from the outer edge of the existing floor slab and improves the capture of natural light for the bedroom (this also eliminates a dark area of exterior deck). This adds approximately 1764 sq.ft. (F.A.R. 0.05).

HEIGHT & UNIT INCREASE

The second main revision is the addition of 8 units, on 2 floors, at the top of the building. These two new floors of 10'-3" each, along with a 2'-0" headroom increase for the penthouse elevator, will increase the total height of the building by 22'-6" for a height increase above Front Street from 185'-6" to 208'-0". These two floors increase the building density by approximately 11,860 sq.ft. (F.A.R. 0.31).

From an architectural viewpoint, we feel the two additional floors, at the top of the building, will improve the overall proportions of the tower by increasing the slenderness of the tower massing.

SUMMARY OF PROPOSED REVISIONS

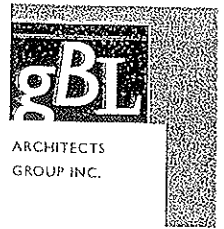
	Current	Proposed
Height (above Front Street)	185' - 6"	208' - 0"
F.A.R. Total	5.30	6.30
<u>Proposed F.A.R. Additions</u>		
Underground Storage		0.57
Townhouse Crawl Space		0.07
Unit A Bedroom		0.05
2 Floors at Tower		0.31
Number of Floors (above Front St.)	16	18
Number of Units	161	169

Sincerely,
 GOMBEROFF BELL LYON
 Architects Group Inc.

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Eric Schroeder

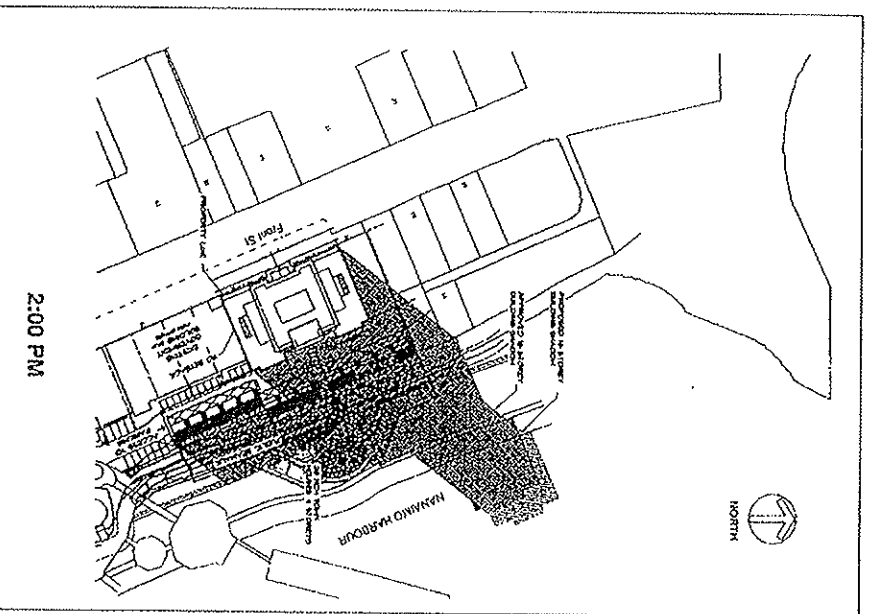
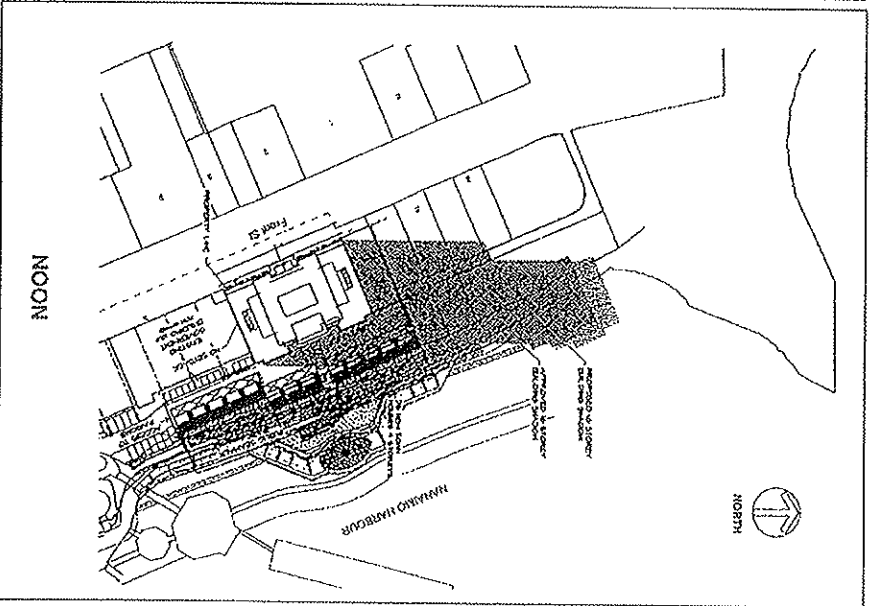
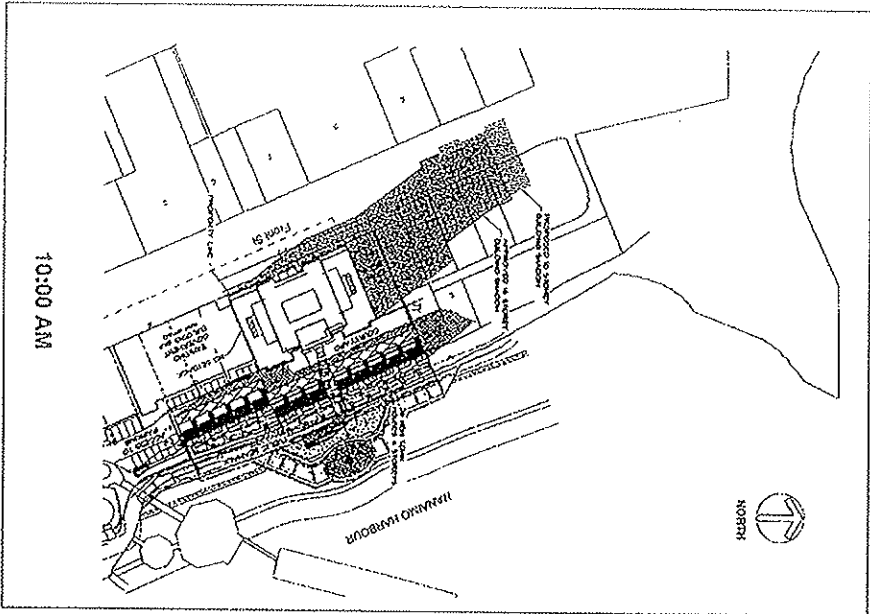
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	38 Front Street Pacifica		20 Front Street Insight	Conference Centre tower
	Approved	Proposed		
Height	185'-6"	208'-0"	244'-6"	273'-0"
Storeys	16	18	24	25
F.A.R.	5.3	6.3	6.4	Unlimited

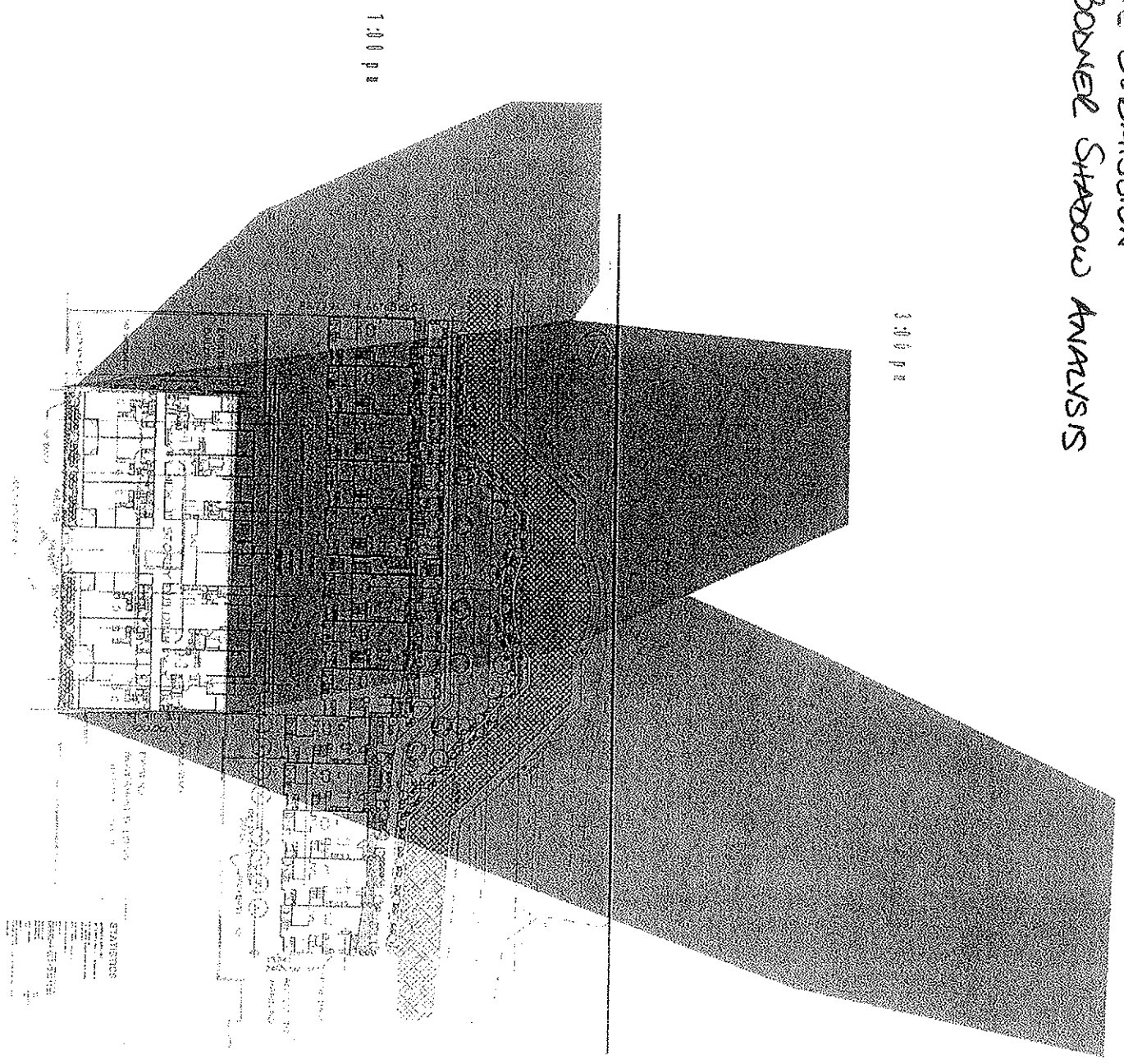
Sincerely,
GOMBEROFF-BELL LYON
Architects Group Inc.

Eric Schroeder, MAIBC



SHADOW ANALYSIS 16 STOREY APPROVED AND 18 STOREY PROPOSED MARCH 21 & SEPTEMBER 25

FEED BACK SUBMISSION DEBRA BOXER SHADOW ANALYSIS



5:00 pm

Cape Developments

Adding two stories will extend the height of this building to approximately 100 meters from the level of the waterfront walkway. On the Front Street side, it will be approximately 64 meters.

The diagram shows shadows on the following dates and times:

September 23 and March 21 at 1:00 pm, 3:00 pm and 5:00 pm.

On June 21 the sun will be higher, and shadows shorter.

On December 21, the sun will be lower and shadows longer.

Generally speaking, earlier and later in the day shadows will extend more horizontally and longer along the walkway itself.

Joe phoned his broker yesterday and said, "Harry, remember those shares I sold last week? They surprised the heck out of me by going up when they were supposed to go down. I don't suppose you could ..." Harry replied, "No problem, Joe. Consider those shares unsold. Joe said, "Thanks, Harry." Harry replied, "Don't mention it. What are good friends for?"

In Nanaimo, city council was shocked by rising construction costs and found its NNC "vision" had feet of clay to the tune of twenty million bucks. So the city turned to its private partner and said, "Mr. Triarc, sir. I've got a problem." Mr. Triarc responded, "No, you don't. We have a problem. Here's ten million with my blessing to cover my share of those additional costs neither of us could have foreseen. The city said, "Thanks, Mr. Triarc." Mr. Triarc replied, "Don't mention it. What are good friends for?"

Such are the fantasies. The reality is Harry thought Joe was joking and went along with the gag. Nanaimo's reality is that its citizens are paying the penalty for this rise in NNC costs in terms of other projects put on hold because their funds have been, or are in the process of being, "redirected."

Nanaimo's council is even considering scooping money from its sewer fund to help make up the shortfall. But that's the down and dirty reality when project costs spiral out of control. You pay the piper when you can't call the tune.

But Mr. Wright has his company marching to a different drum, doesn't think Cape Development should be held responsible when hit by an unpleasant financial surprises, or the repercussions of Cape's fire sale of one bedroom condos listed at over \$200,000 that went for \$137,000. He wants council to change a city bylaw for his company's gain, counter to the recommendation of city staff on record as opposing his request.

Is not our city hall staff well-qualified and paid salaries commensurate with their qualifications and experience? Is Mr. Berry, for example, merely an inconsequential administrative wannabe working for minimum wage? Not on your Nellie! I've seen the bicycle he rides! It's a high tech wonderbar, an awesome environmentally friendly machine.

But Mr. Wright would have us ignore Mr. Berry's expertise, regarding him and his colleagues as invalid players in this controversy over Cape Development's request for a cap violation.

On the other hand, do I find it strange to be for once on the same side of the fence as Mr. Berry. Actually, it feels so odd it's downright painful. But the law of averages said the man had to be right one of these times, and so on this issue I support him all the way.

Only two more stories higher? Doesn't sound like much. But that increase in height runs the entire ^{width} of the Pacifica project.

~~Project~~ ^{roughly} Picture Gallery 223 on Commercial Street and its adjoining buildings, the Modern Café and the RBC Bank. That's the addition to the Pacifica wall that will further block the harbor view at a two story height.

Added height that also translates into ^{approximately} 107 feet of increased shadow length cast along our seafront walkway mid-afternoon at mid-July, much further when the sun is lower. And if anyone thinks "shadow factor" is of no consequence, try sampling tower temperature change during an afternoon's walk in Coal Harbor, Vancouver.

Other bowl shaped cities, such as San Francisco, have no towers at all on their waterfronts. They've followed the logic of placing their towers up the slope at the top of their bowls.

I realize that's not the issue at this hearing, but if we're doomed to have waterfront towers, for goodness sake let's not make them even higher.

In conclusion, it would be a travesty to give into the needs of yet another developer, throw a duly sanctioned municipal cap out the window and grant Cape Development the right to add 22 more feet on a building that, by no stretch of the imagination can be regarded as having a small footprint, already more like a waterfront boot that Mr. Wright wants to make even bigger.

To end with a request for information not covered in the local press, is Cape Development already contributing \$50,000 per floor to the city's housing legacy fund, or is Cape's offer of a revenue sharing grant of \$100,000 contingent on council granting permission to add two more stories?

Edwin Turner
51 Kennedy Street
Nanaimo, B.C.
V9R 2H5
753-7802

COMMENTS FOR THE PUBLIC HEARING ON BY-LAW NO. 40000.389 (RE:
CAPE DEVELOPMENTS REZONING APPLICATION FOR THE OLD HOTEL
MALASPINA SITE)

March 16, 2006

Eric William Ricker

TO MAYOR AND COUNCIL:

I HAVE TWO CONCERNS I WISH TO ADDRESS WITH RESPECT TO THE
APPLICATION OF CAPE DEVELOPMENTS TO ADD TWO ADDITIONAL
STORIES TO THEIR PROJECT ON THE OLD MALASPINA HOTEL SITE.

HOWEVER, FIRST I WOULD LIKE TO BE CLEAR ABOUT THE GROUND
RULES FOR THIS HEARING. MY UNDERSTANDING IS THAT THE
PURPOSE OF A PUBLIC HEARING IS FOR CITIZENS TO BE HEARD AND
NOT FOR COUNCILLORS TO DEBATE WITH THEM THEIR VIEWS UNLESS
THEY ARE WILLING TO DO SO. THIS PROTOCOL HAS NOT BEEN
OBSERVED IN SOME RECENT PUBLIC HEARINGS IN CONNECTION WITH
REZONING IN THE DOWNTOWN AREA AND I WOULD LIKE THE
MAYOR'S ASSURANCE THAT IT WILL BE.

[READ THE FOLLOWING PARA. IF NO ASSURANCE GIVEN]

(IF THE MAYOR IS NOT PREPARED TO PROVIDE THAT ASSURANCE, I
WOULD ASK THAT HE NOT DEBATE WITH ME MY COMMENTS
WITHOUT TURNING OVER THE CHAIR TO ANOTHER COUNCILLOR, AS
ORDINARY PROCEDURE UNDER VARIOUS RULES OF ORDER REQUIRES.
I AM PREPARED TO EXCHANGE VIEWS WITH THE MAYOR, BUT NOT IF
HE HOLDS THE GAVEL.)

MAY I HAVE YOUR RESPONSE, MR. MAYOR?

THE GROUND RULES HAVING BEEN ESTABLISHED, HERE ARE MY
CONCERNS:

FIRST:

THE CITY HAS ITS OWN CONFLICT OF INTEREST POLICY, ADOPTED IN
1988, WHICH THANKFULLY HAS FINALLY BEEN DISCUSSED IN ONE

2/
LOCAL NEWSPAPER. IN THE ARTICLE THAT APPEARED IN THE *NEWS BULLETIN* TWO DAYS AGO, THE MAYOR DECLARED AS FOLLOWS:

"IT JUST AMAZES ME WHEN I GO TO FOLLOW THE LAW AND YOU GET PEOPLE LIKE MR. RICKER TRYING TO MAKE IT LOOK LIKE I'VE DONE SOMETHING WRONG."

MR. MAYOR, IS THAT QUOTATION ACCURATE?

[ASSUMING YES, READ THE FOLLOWING] I WOULD NOW LIKE TO RESPOND TO THAT COMMENT BECAUSE IT HAS A DIRECT BEARING ON THIS HEARING TONIGHT.

WHAT I'VE CALLED UPON THE MAYOR TO DO IS TO FOLLOW SCUPULOUSLY THE CITY'S OWN POLICY, REGARDLESS OF WHAT THE COMMUNITY CHARTER PERMITS. MR. MAYOR, I ASSUME THAT YOU AGREE WITH ME THAT THE CITY'S POLICY IS STILL IN EFFECT BECAUSE (A) I WAS GIVEN A COPY OF THIS POLICY BY CITY STAFF LONG AFTER THE COMMUNITY CHARTER WAS PASSED INTO LAW; AND (B) ON BEHALF OF A CITIZENS' GROUP I COMMUNICATED WITH COUNCIL ABOUT THIS POLICY DURING THE WINTER OF 2005 AND AT NO TIME WAS IT SUGGESTED THAT THE POLICY WAS NO LONGER IN FORCE.

MR. MAYOR, WOULD YOU AGREE THAT THE POLICY IS STILL IN FORCE? THANK YOU.

I WOULD NOW LIKE TO SAY WHY IT IS THAT VOTING ON THIS APPLICATION BY ANYONE WHO RECEIVED A DONATION FROM CAPE DEVELOPMENTS WOULD BE IMPROPER IN TERMS OF CITY POLICY. I EXCLUDE FROM THAT A VOTE TO SEND THE QUESTION TO PUBLIC HEARING: SUCH COULD NOT REASONABLY BE CONSTRUED, IN MY JUDGEMENT, AS A CONFLICT OF INTEREST BECAUSE NOTHING OF CONSEQUENCE IS THEREBY DECIDED.

SO MY FIRST POINT, MR. MAYOR, IS THAT CONTRARY TO YOUR QUOTED REMARKS IN THE *NEWS BULLETIN*, I HAVE NOT "MADE IT LOOK LIKE" YOU'VE "DONE SOMETHING WRONG." NOT YET AND PERHAPS NOT AT ALL IF YOU TAKE APPROPRIATE ACTION NOW.

HOWEVER, IF YOU VOTE ON THIS APPLICATION TONIGHT I BELIEVE YOU WILL HAVE CONTRAVENED THE TERMS OF THE CITY'S OWN POLICY.

MY CONCERNS COMMENCE WITH THE NEWS COVERAGE PROVIDED BY THE *NANAIMO DAILY NEWS* ON MARCH 2. THE STORY WAS TITLED "KORPAN CAUTIOUS ON CAPE CONTRIBUTION" AND QUITE

3/

CURIOUSLY, IT MADE NO REFERENCE TO THE CITY'S OWN POLICY. INSTEAD THE FOCUS WAS ENTIRELY UPON ONE SECTION OF THE COMMUNITY CHARTER THAT DEALS WITH PECUNIARY INTEREST. THE STORY INCLUDED A COMMENT BY MS. KAREN BURLEY, A SENIOR CITY OFFICIAL, THAT THIS SECTION IS A "BIT OF A GREY AREA," BUT THAT IT MEANT, FOR HER ANYWAY, THAT A CAMPAIGN CONTRIBUTION OF "\$250 TO \$500," FOR EXAMPLE, "WOULDN'T BE PERCEIVED AS ENOUGH TO BUY A COUNCILOR'S VOTE." FOR MS. BURLEY, EVIDENTLY, SOME CALCULUS IS POSSIBLE TO DETERMINE WHEN A COUNCILLOR CAN BE BOUGHT. WITH ALL DUE RESPECT, TO RAISE THAT QUESTION IS TO REALIZE THERE IS NO ANSWER, AS I THINK EVERYONE IN THIS ROOM WOULD AGREE. CONSIDER THE PROBLEM: WOULD WE DEVELOP A "CORRUPTION SCALE" AND APPOINT AN OFFICIAL TO DECIDE WHETHER INFLUENCE COULD BE BOUGHT FOR \$1000 BUT NOT \$500, OR \$750 OR \$900? EVEN SOLOMON COULD NOT MAKE SUCH FINE ~~FINED~~ JUDGEMENTS.

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THE PRECISE AMOUNT OF THE DONATION WAS NOT MENTIONED IN THE *DAILY NEWS*' STORY. INSTEAD, YOU MR. MAYOR, SAID THE PUBLIC WOULD FIND OUT ON MARCH 20TH, WHEN CAMPAIGN DISCLOSURE STATEMENTS ARE DUE. IN OTHER WORDS, THE PUBLIC WOULD FIND OUT AFTER THE PUBLIC HEARING.

YOU ALSO SAID THAT THE REASON THE COMMUNITY CHARTER PERMITTED SMALL CONTRIBUTIONS IS IN ORDER FOR SUCCESSFUL CANDIDATES FROM "ALL ECONOMIC LEVELS" TO PARTICIPATE IN LOCAL GOVERNMENT DECISIONS AS LONG AS THEY DECLARE SUCH DONATIONS BEFOREHAND.

APART FROM THE FACT THAT THE RATIONALE FOR THAT PROVISIO WOULD NOT APPLY TO YOU, I ACCEPT THE POINT, ALTHOUGH IN TRUTH ONE WOULD HAVE TO CHECK BACKGROUND PAPERS FOR THE LEGISLATION AND HANSARD TO BE FULLY CONFIDENT OF YOUR ASSERTION.

THE PROBLEM WITH YOUR REACTION TO ME IS THAT IT IGNORES MY POINTS – AND THOSE ARE THE POINTS MADE IN THE CITY'S OWN CONFLICT OF INTEREST POLICY, POINTS THAT ARE ALSO MADE BY CONTEMPORARY SPECIALISTS IN POLITICAL ETHICS.

THERE ARE SEVERAL POINTS IN THAT POLICY THAT OUGHT TO DIRECT YOU NOT TO PARTICIPATE IN THIS VOTE OR EVEN REFEREE THE DISCUSSION ON IT. I SAY THIS BECAUSE THE *DAILY NEWS* STORY REVEALED THAT YOU WERE NOT FORTHCOMING ABOUT A) THE AMOUNT OF THE DONATION; AND B) THE EXISTENCE OF THE CITY'S OWN POLICY REQUIREMENTS.

4/

I WISH TO ADDRESS JUST A COUPLE OF PASSAGES IN THE CITY'S POLICY THAT APART FROM PECUNIARY INTERESTS, FOCUS UPON THE ESSENCE OF THE CONFLICT OF INTEREST ISSUE – THE APPEARANCE OF CONFLICT.

THE POLICY STATES THAT COUNCIL MEMBERS ARE “AT ALL TIMES TO AVOID ANY OCCASION FOR SUSPICION OR THE APPEARANCE OF IMPROPER CONDUCT.” IT FURTHER CAUTIONS THAT “INTERESTS WHICH ARE NOT PECUNIARY CAN BE JUST AS IMPORTANT” AS PECUNIARY INTERESTS AND IT GOES ON TO LIST VARIOUS KINDS OF RELATIONSHIPS, INCLUDING “INSTITUTIONAL,” “FRIENDSHIP” AND OTHERS THAT “CAN SOMETIMES INFLUENCE YOUR JUDGEMENT AND GIVE THE IMPRESSION THAT YOU MIGHT BE ACTING FOR PERSONAL MOTIVES.” (EMPHASIS SUPPLIED.) THERE IS MORE BUT I WILL LEAVE IT AT THAT.

THESE ARE THE VERY POINTS STRESSED BY EXPERTS IN PUBLIC ETHICS, SUCH AS DR. MICHAEL MCDONALD, MAURICE YOUNG CHAIR OF APPLIED ETHICS AT UBC, WHO SAYS THERE IS A CONFLICT OF INTEREST WHEN THERE IS A “PRIVATE OR PERSONAL INTEREST SUFFICIENT TO APPEAR TO INFLUENCE THE OBJECTIVE EXERCISE OF HIS OR HER OFFICIAL DUTIES” –OR JUDICIAL AUTHORITIES SUCH AS SUPREME COURT JUSTICE GRANT BURNYEAT, WHO IN A FAIRLY RECENT DECISION COMMENTED:

“CONFLICT OF INTEREST IS CONCERNED WITH APPEARANCES. THE EXISTENCE OF A CONFLICT OF INTEREST IS DETERMINED BY EVALUATING WHETHER A REASONABLE PERSON WITH KNOWLEDGE OF ALL THE FACTS WOULD BELIEVE THAT A COUNCIL MEMBER IS LIKELY TO BE INFLUENCED BY THEIR PERSONAL INTERESTS WHEN PARTICIPATING IN A PUBLIC MATTER.” (EMPHASIS SUPPLIED.)

BUT IT IS NOT JUST A CASE OF THE EXPERTS, THE JUDICIARY AND THE CITY'S OWN POLICY: THE PUBLIC HAS BEEN AROUSED BY ETHICAL ISSUES IN GOVERNMENT -- PERHAPS AS NEVER BEFORE. AS THE RECENTLY RE-ISSUED COMPREHENSIVE ASSESSMENT OF PUBLIC OPINION ON SUCH MATTERS, A *QUESTION OF ETHICS: CANADIANS SPEAK OUT* (OXFORD UNIVERSITY PRESS, 2006) OBSERVES: “IT IS IMPORTANT TO REALIGN POLITICAL PRACTICE WITH THE EXPECTATIONS OF THE PUBLIC.” (EMPHASIS SUPPLIED.)

MR. MAYOR, I THINK THE IMPORTANT CONCLUSION ONE IS COMPELLED TO REACH AFTER CONSIDERING THE CITY'S POLICY, THE VIEWS OF THE EXPERTS, THE VIEWS OF THE JUDICIARY AND THE VIEWS OF THE PUBLIC IS THIS: ONE SHOULD NOT BE THE JUDGE OF ONE'S OWN SITUATION.

5/

YOUR FAILURE TO BE COMPLETELY CANDID WHEN PROVIDING COMMENTS FOR THE FIRST NEWS STORY INDICATES THE NATURE OF THE PROBLEM; JUST AS YOUR FAILURE TO ADDRESS MY STATED CONCERNS INSTEAD OF OFFERING AN IRRELEVANT ARGUMENT ACCOMPANIED BY AN ATTEMPT AT A PERSONAL REBUFF FURTHER UNDERScoreD THE NEED ON THE OCCASION OF THE SECOND NEWS STORY.

SOME TIME AGO A GROUP OF CITIZENS CALLED UPON COUNCIL TO ENGAGE AN ETHICS COUNSELOR OR ADVISOR FOR DIRECTION ON THE APPLICATION OF THE CITY'S POLICY. THIS ADVICE WAS SPURNED. THE WISDOM OF HAVING AN ETHICS ADVISOR, HOWEVER, IS CLEARLY ILLUSTRATED BY YOUR REACTION TO THE PRESENT SITUATION.

MR. MAYOR, AS THE LEADING POLITICAL FIGURE IN THIS COMMUNITY IT IS UP TO YOU TO SET THE HIGHEST POSSIBLE STANDARD OF CONDUCT. YOU ARE A ROLE MODEL FOR OTHERS WHETHER YOU REALIZE IT OR NOT. OTHERS WILL FOLLOW YOUR EXAMPLE.

UNFORTUNATELY, BOTH THE THINGS YOU HAVE SAID AND THE THINGS YOU HAVE FAILED TO SAY IN THE PRESS SIMPLY REINFORCE THE ARGUMENT THAT POLITICAL FIGURES SHOULD AT ALL TIMES BE AT PAINS TO AVOID THE APPEARANCE OF CONFLICT OF INTEREST.

IT IS NOT TOO LATE; I RESPECTFULLY REQUEST THAT YOU HONOUR THE CITY'S POLICY TONIGHT AND ABSENT YOURSELF FROM FURTHER DISCUSSION AND THE VOTE ON CAPE'S APPLICATION.

AS I NOTED AT THE OUTSET, I HAVE A SECOND POINT TO MAKE, AND THAT CONCERNS THE APPLICATION ITSELF.

I BELIEVE THERE IS MUCH GOOD WILL IN THIS COMMUNITY FOR CAPE DEVELOPMENTS, ALTHOUGH AS I SAID TO THE *NEWS BULLETIN* REPORTER, I BELIEVE CAPE OUGHT TO HAVE ADVISED THE MAYOR -- AS WELL AS ANY OTHER COUNCIL MEMBER WHO MAY HAVE RECEIVED A DONATION FROM THEM -- TO REFRAIN FROM PARTICIPATION IN THE DECISION ON THEIR APPLICATION.

BE THAT AS IT MAY, I BELIEVE THE APPLICATION SHOULD BE REJECTED, MAINLY BECAUSE THE CITY STAFF HAVE FOUND IT AT ODDS WITH THE ZONING PLAN FOR THE DOWNTOWN, WHICH ITSELF IS FAR FROM PERFECT SINCE IT WAS NOT PRECEDED BY THE SORT OF COMMUNITY CONSULTATION AND INPUT FROM EXPERTS ON URBAN DESIGN THAT WAS NEEDED. HOWEVER, TO RENDER AN IMPERFECT POLICY COMPLETELY DYSFUNCTIONAL IS TO INVITE MORE AD HOCERY IN DOWNTOWN PLANNING. WITH REPECT, NANAIMO DOES NOT NEED THAT.

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6/

CAPE HAD ITS OWN BUSINESS DECISIONS TO MAKE AND IT DECIDED TO SELL OFF EVERY UNIT RATHER THAN HOLD SOME BACK FOR FUTURE SALE. NOW THAT INFLATION IS APPARENTLY THREATENING PROFIT MARGINS, THE DEAL DOESN'T LOOK QUITE AS GOOD.

I THINK THE ORDINARY CITIZEN HAS SOME SYMPATHY FOR CAPE'S PROBLEM BUT NOT MUCH FOR THE CHAIN REACTION THAT COULD DEVELOP AS OTHER PROJECTS SEEK SIMILAR FAVOURS. I WOULD LIKE TO SUGGEST, IF THE MATTER HAS NOT ALREADY BEEN INVESTIGATED, THAT CAPE BE GIVEN AN OFFSETTING CONSIDERATION IF IT CAN CLEARLY DEMONSTRATE THAT THE PROJECT IS NO LONGER PROFITABLE. SUCH A CONSIDERATION MIGHT TAKE THE FORM OF INCREASED DENSITY WITHIN THE PRESENTLY APPROVED BUILDING HEIGHT -- IF THAT IS POSSIBLE -- OR PERHAPS AN OPPORTUNITY TO PARTICIPATE IN ANOTHER PROJECT, SUBJECT TO THE USUAL RULES, INCLUDING REQUIREMENTS FOR TENDERING.

PERSONALLY, I WOULD NOT LIKE TO SEE THE CAPE PROJECT JEOPARDIZED. NANAIMO HAS BEEN FORCED TO ENDURE THIS EYESORE -- THIS CARCASS OF A BUILDING -- FAR, FAR TOO LONG. HOWEVER, SOME METHOD SHOULD BE DEVISED TO ACCOMMODATE ANY VALID CONCERNS THE DEVELOPER HAS WITHOUT TAMPERING WITH DOWNTOWN ZONING AND OTHER IMPORTANT CIVIC REQUIREMENTS.

THANK YOU FOR GIVING FULL AND PROPER CONSIDERATION TO THESE VIEWS.

(AS AN ADDENDUM, YOU WILL FIND ATTACHED A COPY OF A LETTER OF MINE THE *DAILY NEWS* REFUSES TO PRINT. THE EDITOR HAS DECLARED THAT HE WILL NOT BE A CONDUIT FOR MY CRITICISM OF THE MAYOR, EVEN THOUGH HE UNHESITATINGLY ALLOWS HIS PAPER TO BE A CONDUIT FOR CRITICISMS DIRECTED AT OTHER PUBLIC FIGURES. HE IS ALSO OF THE OPINION THAT THE CITY'S OWN POLICY ON CONFLICT OF INTEREST HAS BEEN SUPERSEDED BY THE COMMUNITY CHARTER. HE CAN CITE NO AUTHORITY ON THIS, OF COURSE, BECAUSE THERE IS NONE.)

To the Editor:

Is it all right for Mayor Korpan to declare that he received a donation from Cape Developments for his election campaign and then participate in a decision to permit that company to add more floors to the old Malaspina Hotel (*Daily News*, March 2)?

Despite what the Community Charter states, the City's own Conflict of Interest policy requires that council members "at all times avoid any occasion for suspicion or the appearance of improper conduct." It cautions that "interests which are not pecuniary can be just as important" as pecuniary interests and lists various kinds of relationships, including "institutional," "friendship," and others that "can sometimes influence your judgment and give the impression that you might be acting for personal motives."

Does the mayor's declaration address such concerns and others contained in the City's policy? Consider:

1. When commenting on this matter to the *Daily News*, neither the mayor nor Ms. Burley mentioned the City's policy.
2. Procedural fairness for the Public Hearing on Cape's request requires that the chair be impartial. Under most rules of order the chair of a meeting steps aside when a personal interest is involved.
3. The mayor has not declared the amount of Cape's donation and says he will not until March 20th. The Public Hearing is March 16th.
4. City staff has recommended against Cape's application; their recommendation deserves to be considered in an unimpeachably impartial manner.

The principles involved here are of paramount importance, especially in a post-Gomery world. As the recently re-issued book, *A Question of Ethics: Canadians Speak Out* (Oxford University Press, 2006) observes, it is "important to realign political practice with the expectations of the public."

The mayor should follow the strictest interpretation of the City's policy and recuse himself.

Eric W. Ricker