

MINUTES OF THE PLANNING, ENVIRONMENT AND DEVELOPMENT
STANDING COMMITTEE MEETING HELD IN THE BOARD ROOM, CITY HALL,
ON THURSDAY, 2003-APR-17, COMMENCING AT 3:05 P.M.

PRESENT: Councillor L. J. Sherry, Chair

Members: Councillor R. A. Cantelon
Councillor W. J. Holdom

Staff:	B. N. Mehaffey	A. Millward
	E. C. Swabey	S. E. Fletcher
	T. P. Seward	J. T. Bowden
	G. Savage	C. Hambley
	D. Lindsay	

1. ADOPTION OF MINUTES:

- (a) Minutes of the 2003-FEB-27 Meeting of the Planning, Environment and Development Standing Committee held in Conference Room 1, City Hall Annex at 4:04 p.m.

Moved by Councillor Cantelon, seconded by Councillor Holdom that the Minutes be adopted as circulated. The motion carried.

2. RECEIVING OF DELEGATIONS:

Moved by Councillor Holdom, seconded by Councillor Cantelon that Delegations (a) and (b) be permitted to address the Committee. The motion carried.

- (a) Ms. Lynne Fraser, Vice Chair, Social Planning Advisory Committee, regarding the Social Planning Advisory Committee report.

Ms. Fraser was previously authorized to address the Committee.

Ms. Fraser stated that:

- she is the new Vice Chair for the Social Planning Advisory Committee (SPAC).
- she would like to make a few points regarding the allocation of gaming revenue for social programs.
- SPAC is requesting support for four community programs:
 1. Social Development Strategy Project: \$25,000;
 2. Downtown Safety Audit Project: \$10,000;
 3. Emergency Food Service Sector's Collaboration Project: \$10,000;
 4. Homelessness Project: \$45,000.
- in partnership with the United Way, SPAC is developing a Social Development Strategy to meet social needs in this community.

- the Social Development Strategy Project has received a grant from the Vancouver Foundation which requires matching funding from the community.
- the Community Alliance for Social Action has created the Downtown Safety Audit to identify the perceived safety concerns of downtown.
- their main goal is to revitalize downtown by working on safety issues.
- this project will be approximately 4-6 months in duration.
- they have received a grant from the Community Mobilization Program of the National Crime Prevention Centre and SPAC is asking for support of this project with matching funding.
- the emergency food sector has put together the Emergency Food Service Sector's Collaboration Project to enable organizations to work together to increase the capacity to address hunger issues.
- many organizations are participating in this project including Loaves and Fishes.
- they have received a grant of \$23,500. from the Vancouver Foundation and they will continue to fundraise and look for assistance from other food associations.
- they do not have a specific project at this time to address homelessness, but this will be identified in an upcoming evaluation of the plan to reduce homelessness and of needed housing projects.
- matching funds from the community for these social development projects allow them to leverage other levels of government and other charitable organizations for continuing support which enables them to stretch resources in this community.

Moved by Councillor Holdom, seconded by Councillor Cantelon that the presentation be received. The motion carried.

- (b) Mr. Wayne Smith, The Occidental Hotel, regarding the Heritage Alteration Permit Application for 432 Fitzwilliam Street.

Mr. B. N. Mehaffey, General Manager of Development Services, advised the Planning, Environment and Development Standing Committee that Mr. Smith has given notice of intent to take legal action against the City regarding this property.

Mr. Smith was previously authorized to address the Committee.

Mr. Smith stated that:

- he received some paperwork from Staff and he would like clarification of Staff's position in relation to his building.
- if the main heritage portion of the building stays as is, and the rest of the property is developed, that will leave no room for parking.
- he would like the permit to allow him the option to build a more profitable business.
- he doesn't understand why he can sell beer and wine under the current Class "C" licence, but is unable to build a liquor retail store.

Moved by Councillor Cantelon, seconded by Councillor Holdom that the presentation be received. The motion carried.

3. REPORTS OF ADVISORY BODIES:

(a) Recommendations for Use of Casino Revenue

Since 1999, the Social Planning Advisory Committee (SPAC) has made annual recommendations to Council regarding the use of the \$90,000. set aside in Council's budget for social purposes. Previous projects suggested by SPAC for City support were the Problem Gambling Awareness Project, Haven Society's second stage housing project for exiting sex trade workers and the continued collection of data on problem gambling by the Problem Gambling Awareness Project.

This year the Social Planning Advisory Committee is urging Council to support four collaborative community projects:

1. Social Development Strategy Project: \$25,000;
2. Downtown Safety Audit Project: \$10,000;
3. Emergency Food Service Sector's Collaboration Project: \$10,000; and,
4. Homelessness Project: \$45,000.

In partnership with a community steering committee chaired by Lee Mason, Executive Director of the United Way, SPAC is developing a Social Development Strategy for Nanaimo. A Social Development Strategy is a guiding document intended for government and service providers to strategically plan program delivery or mount new community development initiatives to meet social needs in the community. Some of the issue areas that will be addressed include among others, children and families, youth, seniors, poverty, people with disabilities, community and social services, cultural diversity, housing, neighbourliness, safety, security and transportation. This project has already received a \$25,000. grant from the Vancouver Foundation. The Vancouver Foundation requires that a community contribute matching funds. SPAC recommends to Council that the City match these funds with \$25,000. from the Casino Revenue.

SPAC's sub-committee, Community Alliance for Social Action, is contributing to the revitalization of Downtown by working on social issues in the area. The group's first project is an audit of safety issues in the Downtown. The goal of the project is to identify and then address the general public's perceived safety concerns about the Downtown. This project has already received a grant of \$10,000. from the Community Mobilization Program of the National Crime Prevention Centre. SPAC recommends to Council that the City match these funds with \$10,000. from the Casino Revenue.

As a result of discussions at two events hosted by SPAC, the emergency food service sector has decided to form a sector umbrella group in order to work together improving the capacity of service providers to address hunger.

This project has already received a grant of \$23,500. from the Vancouver Foundation. The Vancouver Foundation requires that the community contribute matching funds. Loaves and Fishes, with the assistance of the other food support agencies, Vancouver Island Health Authority and Coastal Community Credit Union, have already raised \$7,000. (funds and in-kind donations) and will continue to fundraise. SPAC recommends to Council that the City support this community partnership by allocating \$10,000. from the Casino revenue.

As Council is aware, the Federal Government has extended its homelessness program, Supporting Community Partnerships Initiative, and Nanaimo will be receiving a second allocation of funds of upwards of \$1 Million. In preparation for the second round, the community steering committee overseeing the program in Nanaimo, Working Group on Homelessness Issues, will revise Nanaimo's community plan to reduce homelessness and identify new priority housing projects needed in Nanaimo.

Last year, Council generously supported the homelessness initiative with an allocation of \$65,000. to Haven Society's Transition House Project for exiting sex trade workers. This year SPAC recommends that Council allocate \$45,000. to an as yet unnamed project to address homelessness recognized through Nanaimo's upcoming evaluation of the plan and identification of needed priority projects.

Council's foresight in providing matching funds for these social development projects makes possible the leveraging of funding from other levels of government and charitable foundations. These funding partnerships stretch available resources stimulating substantial local volunteerism and enabling the community to go even further towards meeting local needs.

Recommendation: That the Planning, Environment and Development Standing Committee recommend that Council support the following four community projects with allocations from Casino Revenue:

1. Social Development Strategy Project: \$25,000;
2. Downtown Safety Audit Project: \$10,000;
3. Emergency Food Service Sector's Collaboration Project: \$10,000; and,
4. Homelessness Project: \$45,000.

Moved by Councillor Holdom, seconded by Councillor Cantelon that the report be received and the recommendations be adopted. The motion carried.

Ad-Hoc Neighbourly House Committee:

(b) Monster Home Regulations

In response to recommendations from the Ad-Hoc Neighbourly House Committee, new regulations for single family dwellings and duplexes were put in place in January 2001. The changes were in response to complaints regarding new homes which were perceived to be out of scale and character with existing neighbourhoods.

The amendments included changes to the way the Zoning Bylaw regulated building heights, massing and introduced new limits for perimeter wall heights.

At the Regular Meeting of Council held 2002-MAR-25, Council directed that the Neighbourly House Committee be reconvened to review the existing "Monster Home" regulations and provide recommendations on amendments where required.

In addition to the original seven member Committee which made recommendations with regards to the initial Bylaw, Council directed that one additional member of the Development Community and a Representative from the Protection Island Ratepayer's Association be added.

The focus of the discussion at the review meetings was on the impact of the existing regulations on steep downsloping lots (lots that slope down from the road). This became the primary issue dealt with by the Committee and is reflected in the proposed Bylaw amendments.

The proposed Bylaw amendments are summarized as follows:

Amendments 1 through 3 are in response to the steep, downsloping lot issue.

1. Allow option of calculating height based on curb elevation.

The Committee is proposing to permit height from curb as follows:

5.0 metres for a pitched roof ($\geq 4:12$) slope;
3.0 metres for a flat roof ($< 4:12$) slope.

2. Allow greater gross floor area for steep, downsloping lots.

When homes are constructed with three storeys entirely above the finished grade on the rear elevation, the gross floor area may be increased as follows:

Lot Size	Gross Floor Area
< 1,000 square metres	4,200 square feet
1,000 – 1,666.66 square metres	5,000 square feet

As a condition of the additional gross floor area, the building footprint cannot exceed 2,000 square feet.

3. Increase the maximum perimeter wall height from 24 feet to 30 feet on the side and rear elevations.

The Committee proposes the maximum perimeter wall height be increased on the rear and side yard elevations (excluding flanking side yards), from 24 to 30 feet, provided:

- The rear wall face is a minimum of ten metres from the rear property line;
- No wall face over 24 feet in height shall exceed 24 feet in width, and must be offset by a minimum of two feet from any adjacent wall over 24 feet in height;
- Any eave or cable end associated with the wall face over 24 feet in height, must not exceed 28 feet in width, and must be offset by at least two feet from any adjacent eave or cable end which is associated with any adjacent wall face over 24 feet in height.

The next three amendments are housekeeping amendments that further refine the intent of the original regulations and provide consistency within the Bylaw.

4. Exempt floors which are completely below grade from the calculation of gross floor area.

All floors with a ceiling height two feet or less above the adjacent finished grade on all sides of the home (excluding localized depressions), are exempt from the calculation of gross floor area.

5. Amend the perimeter wall height definition to clarify wall height excludes open decks.

The original intent was to include covered decks (covered by main roof system) in the calculation of the perimeter wall height. As such, an amendment to the definition is proposed as follows:

"Perimeter wall height – means the vertical distance measured at and up the outermost building face, excluding *open* decks from the finished grade to the top of the wall."

6. Reduce the floor area ratio and gross floor area exemptions from lots which are $\geq 2,000$ square metres, to lots which are $\geq 1,666.66$.

This amendment is proposed in order to keep the RS-1/RS-2 Zone in line with the proposed RS-7 (Steep Slope Bylaw) which is currently under consideration by Council.

The final amendment is in response to a specific request from the Protection Island Ratepayer's Association.

7. In the RS-4 (Single Family Residential Island Zone) homes constructed on lots which are < 2000 square metres, shall not exceed .4 F.A.R., or a gross floor area of 300 square metres (3,229 square feet).

The Committee believes the proposed amendments will address the primary issue of development on steep, downsloping lots while clarifying and ensuring consistency with the balance of the Zoning Bylaw.

Recommendation: The Ad Hoc Neighbourly House Committee recommends that the City of Nanaimo "ZONING BYLAW 1993 NO. 4000" be amended as outlined in the report.

Moved by Councillor Cantelon, seconded by Councillor Holdom that the Planning, Environment and Development Standing Committee direct Staff to prepare an amendment bylaw to the Zoning Bylaw as follows:

1. Allow option of calculating height based on curb elevation;
2. Allow greater gross floor area for steep, downsloping lots;
3. Increase the maximum perimeter wall height from 24 feet to 30 feet on the side and rear elevations;
4. Exempt floors which are completely below grade from the calculation of gross floor area;
5. Amend the perimeter wall height definition to clarify wall height excludes open decks;
6. Reduce the floor area ratio and gross floor area exemptions from lots which are $\geq 2,000$ square metres, to lots which are $\geq 1,666.66$; and,
7. In the RS-4 (Single Family Residential Island Zone) homes constructed on lots which are < 2000 square metres, shall not exceed .4 F.A.R., or a gross floor area of 300 square metres (3,229 square feet).

The motion carried.

4. CITY MANAGER'S REPORT:

DEVELOPMENT SERVICES:

PLANNING:

(1) Delegation of Authority to Approving Officer for Approval of Strata Conversions

On 2000-JUL-01, the *Condominium Act* was replaced by the *Strata Property Act*.

Section 242(10) of the *Strata Property Act* enables a Municipal Council to delegate its authority for the approval or rejection of strata conversion of previously occupied buildings to the Subdivision Approving Officer.

Strata conversion of an existing building results in separate ownership of individual units within the building. The current review of a strata conversion application is undertaken by Staff prior to a recommendation to Council to either approve or reject a strata conversion proposal. The process is very similar to a conventional subdivision review and involves technical reports, assessments and consideration of relevant bylaws, however, in the strata conversion process, Council is currently the approving authority. The *Strata Property Act* requires that the approving authority consider:

- the life expectancy of the building;
- the anticipated significant building maintenance items and the associated costs;
- building upgrade to comply with current municipal regulations; and,
- availability of rental accommodation. (The City's OCP – Policy 1.6.2 – states that, “the conversion of existing buildings to condominium status – will be prohibited when the rental vacancy rate falls below three percent.”)

Under the current system of strata conversion review, when all of the technical and construction issues are addressed, it is usually the vacancy rate issue which influences the Staff recommendation to Council to either approve or reject the proposal.

There has been ten Strata Conversion applications since 2000. Only two of these applications have progressed to the stage where Final Approval by the City is required.

By delegating the authority, the Approving Officer will be able to make the decision to approve or reject the conversion of units within a building for the purpose of separate individual ownership. His decision will be based both on the technical review and any Council policies; such as on the three percent vacancy rate, as identified in the Official Community Plan.

It is Staff's opinion that delegating the authority to the Subdivision Approving Officer would result in a reduced timeframe for applicants and be perceived as a “business friendly” initiative.

Recommendation: The Planning, Environment and Development Standing Committee recommends that Council delegate the authority for approving or rejecting applications for strata conversions of previously occupied buildings to the Subdivision Approving Officer, pursuant to Section 242 (10) of the *Strata Property Act*.

Moved by Councillor Cantelon, seconded by Councillor Holdom that the report be received and the recommendation be adopted. The motion carried.

(2) The Occidental Hotel - Heritage Alteration Permit Application – 432 Fitzwilliam St.

On 2003-MAR-20, Nanaimo Queens Hotel Ltd., submitted a Heritage Alteration Permit application to the Development Services Department in order to permit demolition of the Occidental Hotel located at 432 Fitzwilliam Street.

The following options are available to Council with respect to the Heritage Alteration Permit application:

1. Approve the Heritage Alteration Permit Council may approve the Heritage Alteration Permit. This will permit the property owner to proceed with a Demolition Permit application and Staff will be permitted to issue the Demolition Permit. The demolition process is not without cost. Costs will include application fee (\$60), security deposit (\$1,000), and structural engineer report (est. \$2 – 3,000). Beyond this cost is the actual cost of removing the building estimated to be in the \$100,000 to \$200,000 range.
2. Introduce a Heritage Designation Bylaw Council may introduce a Heritage Designation Bylaw for First and Second Readings. Upon introduction of a Designation Bylaw, a 60-day period of temporary protection comes into effect. In order for the designation to take effect, Council must adopt the Bylaw by the end of this period. During this period, Council must also hold a Public Hearing for the Bylaw.

Upon adoption of the Designation Bylaw, Council can choose to deny the Heritage Alteration Permit and therefore prohibit the building's demolition. This option carries with it potential financial ramifications, the details of which are set out in the full report.

3. Deny the Heritage Alteration Permit Council may deny the Heritage Alteration Permit. In the previous information report submitted to Council at its Regular Meeting held 2003-FEB-24, Staff stated that outright denial of a Heritage Alteration Permit is not an option. However, since this date Staff has sought advice from both the BC Heritage Branch, as well as the City Solicitor and has been informed that denial is an option under Section 972 of the *Local Government Act* as long as the denial would be:
 - a. consistent with the purpose of the heritage protection of the property; and,
 - b. development of the land to the use and density allowances of the property's existing zoning (C-17 Old City Mixed Multiple Family/Commercial Zone) can otherwise be reasonably accommodated on the property.

The subject property is approximately 10,631 square feet in size, of which approximately 50 percent of the site is covered by the original Occidental Hotel building and a later addition which does not have heritage significance. Staff believe that with demolition of the later addition, the property can be built out to the existing density allowance permitted under both the G17 Zone, as well as the increased density allowance permitted by the C-25 Fitzwilliam Zone proposed under

the Downtown Zoning initiative, without removing the existing two-storey Occidental Hotel. In other words, retention of the Occidental Hotel building does not prevent the owner from exercising his right to develop the land to the use and density allowances of the Zoning Bylaw.

Heritage Commission Position:

At its Regular Meeting held 2003-APR-02, the Heritage Commission reviewed the Heritage Alteration Permit application and passed a motion recommending that Council deny the permit application and advise the owner to submit an alternative proposal which achieves the property's use and density allowance without removing the existing heritage building.

Staff Position:

Staff also support Option 3. This option best conveys the importance Council places on retention of the City's heritage resources in the downtown and the role that these resources play in downtown revitalization. Furthermore, the option encourages the owner to look at the development alternatives which are available for the site. In particular, the property owner has indicated a desire to build infill housing on the site. This can be done without removing the Occidental Hotel. The continuing existence of the Occidental Hotel and new infill residential development can both be accommodated on the site and are not mutually exclusive. Preservation of the heritage building and construction of new infill residential would also achieve two primary objectives of the City's ongoing downtown revitalization initiative – additional downtown housing and retention of the downtown's heritage character.

Recommendation: That the Planning, Environment and Development Standing Committee recommend that Council:

1. deny the Heritage Alteration Permit; and,
2. direct Staff to advise the property owner that the City would welcome a proposal to develop the land under the property's existing use and density requirements, provided the original Occidental Hotel building is preserved.

Moved by Councillor Holdom, seconded by Councillor Cantelon that the report be received and the recommendations be adopted. The motion carried.

(3) Fabric Covered Buildings

City Staff have received complaints with regard to "fabric covered structures" being erected on variously zoned properties in the City of Nanaimo. At this time there is not a clear policy to deal with these structures, which have proliferated in the City as an alternative to site-built accessory buildings.

Construction or erection of "fabric covered structures" in Nanaimo generally fall into two categories:

1. Small fabric covered structures generally ranging in size from 9.3 square metres (100 square feet) to 22.3 square metres (240 square feet). These structures are erected from pre-manufactured tubular metal or plastic frame kits which are covered by fabric, reinforced plastic or vinyl sheet material. In a number of cases these structures are intended for temporary and/or seasonal use and often have been used as an alternative to tarpaulins over stored items. In some cases these structures are used for vehicle/boat or other storage and have been in place for a number of years.
2. Structures larger than 22.3 square metres (240 square feet) are generally intended for permanent or long-term use. Typically these tent-like structures are constructed of either metal or plastic frame or pre-manufactured arched trusses using galvanized steel tubing.

The process for authorizing and monitoring the construction or erection of these two categories of buildings by the Building Inspection Division is markedly different. Due to the size, contents and permanent purpose, buildings in Category '2' are considered to be within the jurisdiction of the Building Code and must be either manufactured to applicable Canadian Standards, and/or their design and materials must be reviewed by the appropriate Registered Professionals, necessitating sealed drawings submitted with Permit applications and Professional field review of construction is required. Conversely, the smaller fabric covered structures and their components are not manufactured to any current Canadian Construction or Materials standard. These structures are intended for temporary and/or seasonal use and are not designed to withstand the demands of long-term exposure to the elements. It is with this category of structures that this report is primarily concerned.

Regulation of fabric covered structures in other jurisdictions varies significantly. A number of Municipalities canvassed by Staff do not permit these structures within the community unless they can comply with the requirements of the Building Code. Other Municipalities exempt these structures (often limited by size and use) from the requirements of the Building Code and Permit process. Most of the communities, however, maintain that the structures must comply with zoning requirements (setbacks, height etc). The single unifying regulatory position of the majority of the Municipalities surveyed was that the regulation/enforcement was reactive and based on complaint.

If Permits are not required for the erection of these fabric covered structures, it is important that their use be regulated to ensure that the structures conform to the requirements of the City of Nanaimo Zoning Bylaw including required setbacks, heights, etc. for accessory buildings and that a time limit be placed on their use.

By requiring the structures to conform to Zoning Bylaws, and requiring a time limitation for use, the possibility of complaints from neighbouring property owners should be reduced. In effect the structures would be required to conform to the same requirements as currently in existence for accessory buildings already defined in the Zoning Bylaw. Furthermore, by establishing a time limitation for their use is

more in line with the intended use and the inherent limitations of their materials and construction.

Recommendations: That the Planning, Environment and Development Standing Committee recommend that Council:

1. direct Staff to prepare an amendment bylaw to the Zoning Bylaw to include the following definition for "fabric covered structure" meaning "a pre-manufactured structure consisting of wood framing, tubular metal or tubular plastic frame, covered on the roof and a maximum of three sides by a fabric, reinforced plastic, vinyl or other sheet material with a maximum floor area no greater than 22.3 square metres (240 square feet) intended for temporary storage purposes"; and,
2. adopt the following policy:
 - (a) fabric covered structures (as defined) be considered exempt from the requirements of the BC Building Code as permitted under Section 1.1.2.2 of the 1998 BC Building Code and therefore not require a Building Permit for their erection;
 - (b) a maximum of one fabric covered structure be permitted per parcel or property;
 - (c) fabric covered structures be permitted on an individual property for a maximum of 120 days of any calendar year; and,
 - (d) that fabric covered structures be required to conform to any and all siting and other requirements as defined under the City of Nanaimo "ZONING BYLAW 1993 NO. 4000".

Moved by Councillor Holdom, seconded by Councillor Cantelon that the report be received and the recommendations be adopted. The motion carried.

5. INFORMATION ONLY ITEMS:

- (a) Report from the Social Planning Advisory Committee re: Social Planning Advisory Committee's October and January Food Events.
- (b) Report from the Advisory Committee on the Environment re: Annual Workplan.

Moved by Councillor Cantelon, seconded by Councillor Holdom that the Information Only Items (a) and (b) be received. The motion carried.

6. ADJOURNMENT:

Moved by Councillor Cantelon, seconded by Councillor Holdom at 3:50 p.m. that the meeting terminate. The motion carried.

C H A I R

CERTIFIED CORRECT:

SENIOR MANAGER,
CORPORATE ADMINISTRATION