

Corporate Report

NO: R044

COUNCIL DATE: March 7, 2005



REGULAR COUNCIL

TO: **Mayor & Council** DATE: **March 3, 2005**
FROM: **General Manager, Planning and Development** FILE: **6745-20 (CD Zones)**
SUBJECT: **Request for Policy on Single Family Residential Neighbourhood Area Rezoning**

RECOMMENDATION

It is recommended that Council:

1. Receive this report as information;
2. Resolve that any property owner, or any group of property owners who collectively consent to apply to rezone their properties, may submit a rezoning application to the City for the properties they own, along with all necessary supporting materials and application fees for Council to consider the application, based on its merits; and
3. Instruct the City Clerk to forward a copy of this report and the related Council resolution to the delegation from the South Westminster Ratepayers Association.

INTENT

The purpose of this report is to respond to Council's request for a report in relation to a request by the South Westminster Ratepayers Association (the "Association"). The Association requested that the City of Surrey adopt a similar policy to a policy recently adopted by the Corporation of Delta. The Delta policy deals with the matter of neighbourhood area rezoning to reduce the maximum permitted floor area of a single family dwelling permitted on any lot in the neighbourhood, which is the subject of the rezoning.

BACKGROUND

On December 13, 2004, Council received a delegation from the Association. The delegation requested that Council consider a recent approach adopted in Delta to rezone neighbourhoods to restrict the size of new houses where residents of the neighbourhood request such a rezoning by a petition. The delegation further requested that Council consider the St. Helen's Park area of Surrey as a test case for a Surrey neighbourhood rezoning petition. The St Helen's Park area is illustrated on the map attached as Appendix I.

The information submitted to Council on December 13, 2004 by the delegation, identified the threat of "mini-apartments" (i.e., monster houses and potential illegal suites) being constructed on lots in their neighbourhood as the reason behind their request to downzone. Appendix II contains the information submitted to Council by the South Westminster delegation.

DISCUSSION

The "Delta Solution"

In June 2004, Delta Council adopted a Neighbourhood Area Petition and Rezoning Guide (copy attached as Appendix III) as a means to assist any interested neighbourhood in initiating a change to the zoning on the properties within their neighbourhood. The policy was adopted as a result of residents in some neighbourhoods being concerned that redevelopment (i.e., new houses being constructed) on some lots in the neighbourhood was not in keeping with the character of the existing older houses in their neighbourhood.

Delta's process requires that the neighbourhood property owners submit a petition to the municipality. The petition must be signed by the owners of at least 75% of the dwelling units in the area proposed for rezoning. The petition must clearly state the zoning amendments being requested and the reasons for the petition. A map of the petition area must be included. The petition must contain a minimum of ten properties and comprise, as a minimum, all of the lots on both sides of a street for a minimum distance of at least one block. The Delta policy includes a waiver of the normal rezoning application fee. The guide, attached as Appendix III, also clearly notes that the rezoning by-law is subject to a public hearing.

To date, Delta has received four applications under this process. The lots that are the subject of these Delta petitions are comparable in area to the area of lots allowed in Surrey's RF zone, where a standard lot has a minimum lot area of 560 square metres (6,000 square feet). Delta Council has adopted a rezoning by-law for each of two neighbourhoods under this process and the other two rezoning applications are currently being processed. The neighbourhoods range in size from 26 lots to 134 lots. The applications, to date, have all requested the reduction of the maximum floor area permitted on a lot from the 330 square metres (3,552 square feet), as currently permitted, to 232.25 square metres (2,500 square feet). The petitions also request an increase in the minimum side yard setbacks from the current minimum requirement of 1.5 metres (5 feet) to 2.13 metres (7 feet). As Delta's bylaws require the installation of engineering works and services as part of a rezoning application, a Development Variance Permit was also required in each case to waive this requirement as part of the rezoning process.

Where Delta Council chooses to adopt a rezoning by-law for a neighbourhood, if an owner of a lot within the neighbourhood wishes at a later date to build a larger home on the lot or to construct an addition to an existing dwelling, such that the total floor area is greater than 232 square metres, a rezoning application would need to be submitted along with the necessary support materials and fees and Council would need to consider the application and decide whether to adopt a rezoning by-law. This rezoning process provides the public with an opportunity to comment on the merits of the proposed rezoning through the related public hearing.

In those neighbourhoods where Delta has adopted rezoning by-laws, the new zone in the neighbourhood is a Comprehensive Development (CD) zone. It should be noted that through the rezoning process, some properties have been made non-conforming. To resolve this issue, a clause has been added to the CD bylaw stating that this regulation does not apply to any single-family dwelling existing as of the date of the adoption of the CD by-law. Delta staff advises that they may consider creating a new zone to be applied in lieu of using a CD zone since the zoning amendments requested in each of the four petitions submitted, to date, have been the same.

As the fees have been waived, the costs to the municipality include the installation of development signs, the staff time associated with reviewing the application and preparing the necessary reports, by-laws, etc. and the Public Hearing costs, including the related advertising costs.

The maximum floor area allowed for a single-family lot in Delta zoned RS (which is similar to the RF Zone in Surrey) is 330 square metres (3,552 square feet). This is identical to the maximum floor area permitted on a lot in the RF Zone in Surrey.

Surrey Experience

In 1999, the City of Surrey received a petition from residents in the Crescent Park Annex area to rezone residential properties in that area from "Single Family Residential Zone (RF)" to "Half-Acre Residential Zone (RH)". The residents indicated that such a rezoning would act to maintain the existing character of the area. The downzoning request came as a result of area residents' opposition to a subdivision application for some of the large lots in their

neighbourhood to smaller lots as a result of the RF Zone that was in place on all lots in the neighbourhood. The RH Zone allows a minimum lot size of 1,858 square metres (20,000 square feet) whereas the RF zone allows a minimum lot size of 560 square metres (6,000 square feet).

On February 5, 2001, Council considered Corporate Report No. L003, regarding the matter, a copy of which is attached as Appendix III. Three options were presented in that report, as follows:

1. **Council-initiated area rezoning of all properties in the Crescent Park Annex area** - This option would be at the City's cost, would eliminate the possibility of further subdivision in the area without a rezoning application process and could be against the wishes of some of the owners of property in the area affected by the rezoning.
2. **Council-initiated rezoning of properties only with the consent of the owners** - This option would be at the City's cost, could result in small pockets of existing RF-zoned properties in the area where future conflicts might arise when those owners apply for subdivision of the larger lots to smaller lots; however, it would not force rezoning on a lot against the wishes of the owner of the lot.
3. **Council would entertain a collective rezoning application of lots by those owners who want to rezone their properties as a group** - This option would be at the owners' expense, might result in small pockets of existing RF zoned properties in the area remaining with the potential for future subdivision without the need for a rezoning process and which may lead to neighbourhood concern; however this process would not rezone any lot against the wishes of the owner of the lot.

Council endorsed Option 3.

Option 3 did not require a petition, but would follow the normal procedure available to individuals or groups of individuals (to whom the rezoning would apply), who wish to make an application subject to the regular fees and procedures for rezoning.

Current Situation with Respect to St. Helen's Park

The lots in St. Helen's Park are all zoned Single Family Residential (RF) Zone with the exception of two lots, which are zoned Duplex Residential (RM-D) Zone. The dwellings in this area are generally one-storey ranch style homes and one and a half storey split level homes, built in the mid 1950s. There are a few larger homes in the area that have been constructed more recently. These homes are constructed close to the maximum floor area allowed in the RF Zone.

Surrey's Single Family Residential (RF) Zone, which is the typical zone covering most of Surrey's single-family residential neighbourhoods, provides the following:

- For lots that are 560 square metres (6,000 square feet) or less in area, the maximum floor area is 270 square metres (2,900 square feet) to a maximum floor area ratio of 0.52 (i.e., the floor area of buildings on the lot [not including in-ground basement floor area] divided by the area of the lot);
- For lots that are in excess of 560 square metres, the maximum floor area is 330 square metres (3,550 square feet) to a maximum floor area ratio of 0.48; and
- The side yard setback for the principal building on the lot is 1.8 metres (6 feet) and for accessory buildings is 1.0 metre (3 feet).

Of the allowable floor area, 37 square metres (400 square feet) are to be reserved for a garage or carport. The maximum floor area provision was introduced in the RF Zone in 1995. Prior to that time, the maximum floor area of a house on an RF-zoned lot was governed by the maximum floor area ratio provisions, the minimum setback requirements and the maximum height restrictions.

Evaluation of Request

Fundamentally, when an individual buys a lot, they are buying, among other things:

- the value of the physical area of land contained within the lot along with whatever improvements the lot may contain;
- the rights that accrue to the owner of the lot by virtue of the provisions of the lot's zoning, which dictates how the lot may be used; and
- any rights or encumbrances that may be registered on the title of the lot, such as rights-of-way, easements, building schemes, etc.

The zoning on a lot is, in many circumstances, the most significant factor considered in establishing the value of a lot.

The character of a neighbourhood is, to a significant degree, affected by the design of the individual houses that are contained on the lots within the neighbourhood. In recognition of this fact, in the late 1980s, the City introduced a requirement that each new single family residential subdivision in the City have a building scheme (i.e., design guidelines) attached to the lots in the subdivision that would act to ensure compatibility in the form and character of the houses constructed on the lots in the subdivision and with the houses on neighbouring lots. The preparation of a building scheme and its registration on the title of each new lot remains a requirement in relation to each new subdivision approved in the City.

Older subdivisions, such as St. Helens Park, that were developed prior to the late 1980s, do not have a building scheme. When the owner of a lot in an older area, such as St. Helen's Park, wants to demolish an existing house on a lot and build a new house on the lot, the primary control that the City can exercise in relation to the form and character of the new house are the provisions of the zone covering the lot (in most cases, this is the RF Zone), which address only density restrictions (i.e., yard setbacks, height restrictions and floor area restrictions) and property use restrictions. City staff also has some ability to control the elevation of the new house in comparison to the elevation of the adjacent existing houses and the grading of the lot. The change in the zoning provisions being requested by the delegation from St. Helen's Park is attempting to accomplish, in a very rudimentary way, what a building scheme may accomplish more fully in newer subdivisions.

The City faces a conundrum in addressing the request of the delegation from St. Helen's Park. The conundrum is whether the desires of the majority of the property owners in the neighbourhood is a sufficient basis to set aside the objections of up to 25% of the property owners in the neighbourhood, who may not want to have their lots "down-zoned". In the context of public policy, the wishes of a majority should not be the only determining criterion in decision-making. In fact, it is the wishes of the minority that must be given as much consideration in public policy decision-making, even when following the wishes of the majority may seem expedient for the situation and the moment.

City Council has in the past only initiated rezoning of properties against the wishes of the owners of the directly affected properties where such a rezoning was directed at realizing a community-wide or City-wide objective (i.e., an objective beyond the neighbourhood level). Alternatively, City Council considers every application for a rezoning of a lot or lots that is initiated by the owner(s) of the lot or lots.

CONCLUSION

Based on the above discussion and in view of a previous Council decision regarding a similar request, it is recommended that Council resolve not to adopt the Delta policy, but rather to continue to follow the City's normal practice, Resolve that any property owner, or any group of property owners who collectively consent to apply to rezone their properties, may submit a rezoning application to the City for the properties they own, along with all necessary supporting materials and application fees for Council to consider the application based on its merits. It is further recommended that Council instruct the City Clerk to forward a copy of this report and the related Council resolution to the delegation from the Association.

Murray Dinwoodie

General Manager
Planning and Development

LG/kms/saw

Attachments:

- Appendix I - Map of St. Helen's Park Area
- Appendix II - South Westminster Ratepayers Association Request
- Appendix III - Delta Neighbourhood Area Petition and Rezoning Guide
- Appendix IV - Corporate Report L003 (without attachments)

v:\wp-docs\admin & policy\05data\jan-march\02021605.lg.doc

SAW 3/7/05 9:31 AM

Appendix I

Appendix II



Appendix III









Appendix IV



Corporate Report

NO: L003

COUNCIL DATE: February 5/01

REGULAR COUNCIL - LAND USE

TO: **Mayor & Council** DATE: **February 1, 2001**

FROM: **General Manager, Planning & Development** FILE: **0065-012**

SUBJECT: **Crescent Park Annex Property Owners**
Proposed Down-zoning from RF to RH

RECOMMENDATION

The Planning & Development Department recommends that Council:

1. Receive this report as information;
2. Endorse Option 3 as outlined in this report as the approach for rezoning in the Crescent Park Annex area; and
3. Instruct the City Clerk to forward a letter that documents Council decision on this report and a copy of this report to the delegation from the Crescent Park Annex Property Owners who appeared before Council.

INTENT

The intent of this report is to analyze options available to rezone properties in the Crescent Park Annex area in relation to the request made by the Crescent Park Annex Property Owners when they appeared as a delegation before Council in November 2000.

BACKGROUND

On November 20, 2000 Mrs. Zdenka Gerkrath, Ms. Wendy Easton and Mr. Gary Falkirk, representatives of the Crescent Park Annex Property Owners, appeared before Council as a delegation. They requested that Council rezone the area between 124 Street and 128 Street, and between 22 Avenue and 24 Avenue from the current Single Family Residential (RF) Zone to the Half-Acre Residential (RH) Zone. The request was supported by a petition signed by the owners of 89 properties in the area.

The delegation indicated that a recent single family subdivision in the area permitted under the existing RF Zone has changed the character of the neighbourhood. While most of the properties in the area have an average lot size of 2,000 to 2,200 square metres (22,000 to 23,000 sq.ft.), the RF Zone permits subdivision into lots with a minimum size of 560 square metres (6,000 sq.ft.). Rezoning from RF to RH is proposed by the delegation as a means to maintain the tranquil character of the area, with mature trees and wildlife and to prevent piecemeal redevelopment without a rezoning process. The Half Acre Residential (RH) Zone permits subdivision into lots with a minimum size of 1,858 square metres (20,000 sq. ft.).

DISCUSSION

The Crescent Park Annex Area

The Crescent Park Annex area encompasses properties on 22 Avenue, 23 Avenue and the south side of 24 Avenue between 124 Street and 128 Street (Appendix I). The Crescent Park School Annex is located at the north-west corner of this block of land. The area is designated Urban in the Official Community Plan (OCP). The properties in the area are zoned RF, except for seven lots which are zoned Duplex Residential (RM-D) and another lot which has a Comprehensive Development Zone (CD) that allows a higher maximum floor area (than that allowed in the RF Zone) to accommodate an existing 60-square metre (644 sq.ft.) accessory building located at the rear of the property.

North, west and south of the area are urban single family residential subdivisions, zoned RF and designated Urban in the OCP. East of 124 Street is a Suburban-designated residential area, including properties zoned Half-Acre Residential (RH), Half-Acre Residential Gross Density (RH-G) and One-Acre Residential (RA) (Appendix II).

Properties in the Petition

There are a total of 156 properties in the Crescent Park Annex Area, of which 130 properties, if consolidated with adjacent properties, have subdivision potential under the existing RF Zone. The petition submitted by the delegation represented 89 or 57% of all the properties within the Crescent Park Annex Area. However, if the properties which have no subdivision potential are excluded, then the petition represented 68% of the properties with subdivision potential in the area (Appendix I).

One of the 89 properties included in the petition is currently zoned Duplex Residential (RM-D), whereas all the others are zoned RF. While 82% of the petitioning properties have a lot area larger than 1,858 square metres (0.5 acre), the lot size of the remaining 18% of the properties ranges from 898 square metres (9,666 sq.ft. or 0.22 acre) to 1,781 square metres (0.44 acre).

CD Zone vs RH Zone

The existing lots within the subject area do not conform to the RH Zone. Some of the properties do not meet the minimum lot area requirement of 1,858 square metres (0.5 acre) while others, with a lot area larger than 0.5 acres, do not meet the minimum lot width requirement of 30 metres (100 ft.) of the RH Zone. Other non-conformities involve setbacks of existing buildings. As such, should a rezoning application proceed, a Comprehensive Development zone, tailor-made to address the concerns of the proponents that results in the least amount of non-conformity would be the most appropriate approach to rezoning in the area.

Options to Initiate Rezoning

Option 1: Council-initiated Area Rezoning

Under this option, Council would initiate a rezoning process to rezone all properties in the Crescent Park Annex area (as outlined in Appendix I) to CD. The implications of this option are as follows:

- The subject area in its entirety is rezoned to one zone eliminating the possibility of further subdivision without another rezoning process thus maintaining the status quo and ensuring uniformity and compatibility of land use and subdivision pattern;
- Council chooses to exercise its zoning authority as allowed in the Local Government Act;
- Private property rights are being subordinated to the “public interest”;
- This action of Council could be against the wishes of some of the property owners in the area; and
- The City bears all costs of rezoning including staff time in processing the rezoning and drafting of the CD By-law, and public hearing fees.

Option 2: Council-initiated Rezoning of Properties Only with Consent of Owners

Under this option, Council will initiate a process to rezone to an appropriate CD zone only those properties where the owners consent to such a rezoning. The implications of this option are as follows:

- With the owners' consent, the CD Zone is not forced upon the owners against their wishes, and City staff will be

- able to obtain strong support for the drafting of the new CD Zone in the rezoning process;
- There will be sporadic, small pockets of the existing RF Zone remaining in the area;
- Depending on the extent of the rezoning, the lack of a consistent zoning in the area may not be desirable, as neighbourhood conflicts may arise when property owners in the RF Zone apply for subdivision; and
- The City bears all costs of the rezoning process including staff time in processing the rezoning application and drafting of the CD By-law along with public hearing fees.

Option 3: Collective Rezoning Application by Owners

Under this option, all owners who wish to rezone their properties will submit as a group a rezoning application to the City and pay the appropriate rezoning application fees. The implications of this option include:

- Only those owners who consent to the rezoning will apply;
- In this option, the City will take and be perceived to be taking an impartial position in the rezoning process;
- Similarly to Option 2, there may be small enclaves of RF-zoned properties remaining in the area; which may give rise to neighbourhood conflicts when these properties are proposed for subdivision;
- The merits of the rezoning will be assessed in relation to the extent of properties involved, the new zone being proposed, and its impacts on the adjacent properties and the neighbourhood as a whole;
- Instead of the City bearing the costs, the property owners share the costs involved in processing the rezoning application; thus the higher the number of properties included in the application, the smaller the amount of the cost to any individual property owner involved in the application; and
- The property owners would need to appoint a representative to coordinate the application among themselves and liaise with City staff during the rezoning process.

At this point in time, it cannot be predicted with certainty the number or exact location of properties that will be involved in and the level of support for the proposed rezoning. A new CD Zone will need to be drafted, with various regulations, such as maximum floor area ratio, maximum house size, and minimum setback requirements, which will need to be reviewed with the property owners who are interested in participating.

Compared to the first two options, Option 3 allows the City:

- To take an impartial role, rather than an advocacy role (as may be perceived under either of the first two options) in the evaluation and decision-making process;
- To demonstrate that the application has gone through a fair process;
- To spend staff time in assessing the merits of the application and resolving issues with the representative of the applicants, without the need to make extra efforts to undertake coordination among the property owners; and
- To have the fees and other costs involved in the rezoning application (including the rezoning application fee, public hearing fee and development proposal sign costs) borne by the proponents.

Recommended Option:

Based on the above considerations, it is recommended that such a rezoning be pursued on the basis of Option 3.

Costs of the Rezoning Application:

Under Option 3, the costs of the rezoning application including the Public Hearing fee would be approximately \$3900 plus \$65 per existing lot involved in the application. As such, if 80 lots were involved in the application the fee would be approximately \$115 per lot.

CONCLUSION

A delegation of the Crescent Park Annex Property Owners requested that Council rezone their neighbourhood from RF to RH as a means by which to maintain the existing character of the area. The delegation was concerned with the potential for subdivision of the lots in the area to a much smaller size than the existing lots with the potential negative effects this would have on the community. Since the existing lots in the area do not conform to all the minimum specifications of the RH Zone, if rezoning is proposed, it would be appropriate to pursue a CD Zone taylor-made for the area. An evaluation of three options regarding a reasonable approach to the rezoning has been completed and Option 3 as outlined in this report is recommended to Council for consideration. It is further recommended that the decision of Council related to this report along with a copy of this report be forwarded to the delegation of Crescent Park Annex Property Owners who appeared before Council.

Original signed by

Murray D. Dinwoodie
General Manager
Planning & Development Department

YL/kms

Appendix I Properties Included in the Petition for Down-zoning
Appendix II OCP Designation and Zoning of the Crescent Park Annex and Surrounding Areas

v:\wp-docs\admin & policy\05data\jan-march\02021605.lg.doc
SAW 3/7/05 9:31 AM