



Corporate NO: R193

Report COUNCIL DATE: July 25, 2000

REGULAR COUNCIL

TO: Mayor & Council **DATE: July 24, 2000**

FROM: General Manager, Planning & Development **FILE: 7998-0115-00**

SUBJECT: Townhouse Development at 68 Avenue and 182 Street

RECOMMENDATION

The Planning & Development Department recommends that Council:

1. receive this report as information;
2. instruct the City Clerk to provide a copy of this report to Mr. Colin Sprake; and
3. instruct the Planning & Development Department to bring forward an amendment to the applicable Multiple Residential Zones (including the RM-15 Zone) to provide an appropriate interface with the adjacent single family developments.

BACKGROUND

At the June 26, 2000 Regular Council Land Use meeting, Mr. Colin Sprake appeared as a delegation and requested action be taken to stop further construction of a townhouse development located adjacent to the single family residential properties in the vicinity of 68 Avenue and 182 Street in Cloverdale. Mr. Sprake was particularly concerned with the 3-storey townhouses interfacing with the adjacent 2-storey single family homes. Consequently, Council passed the following motion:

“That staff advise of any and all remedies available to Council to mitigate against the impact of this (townhouse) development on surrounding single family residential properties.”

DISCUSSION

The subject townhouse development consists of 90 townhouse units located north of 68 Avenue at 182nd Street

in Cloverdale. The townhouse project, at 14.6 units per acre, is in conformity with both the Official Community Plan and the North Cloverdale West Neighbourhood Concept Plan. The project is surrounded by single family lots on three sides (north, east and west).

The townhouses are in four-plex, triplex, and duplex forms ranging in size from 1,575 to 2,031 square feet. While the duplexes are 2-storeys in height, the middle units of the triplexes and the four-plexes are 3-storeys high (approximately 44 feet when measured to the roof ridge line, and meeting the by-law maximum height of 36 feet when measured to the mid-point of the roof). Along the perimeter of the site, the townhouses are sited 7.5 metres (25 feet) from the property line which meets the minimum setback requirement of the Multiple Residential 15 Zone. A 6-foot high board fence will be installed along the perimeter of the site and will be combined with clusterings of trees to serve as buffer for the surrounding single family lots.

The Public Hearing for the townhouse project was held on November 30, 1998. Final Adoption of the Rezoning By-law and the approval of Development Permit No. 7998-0115-00 were granted by Council on November 15, 1999. The developer has already commenced construction with Phase 1 (35 units), covering the easterly portion of approximately 1/3 of the site, being close to completion. Phase 2 (27 units) is about to start with the Building Permit application having been made on April 28, 2000. The Phase 2 Building Permit, however, has not yet been issued.

The property owners of the adjacent single family development raised concerns regarding possible intrusion of privacy due to the building height being 3-storeys, the number of windows facing their rear yards, and the second level balconies overlooking the adjacent single family homes. The single family owners also expressed concerns that the foundations of the townhouses may have been built higher than allowed, thereby compounding the height impact.

The single family residents are relatively new to the area and, therefore, would not have had the opportunity to voice their concerns when the townhouse project held its Public Hearing 1« years ago. Although the single family subdivision that surrounds the townhouse project was approved 2« years ago; the homes were recently built, sold and occupied by the concerned residents in 1999 or early this year. The single family owners had indicated that they were aware of the adjacent townhouse project when their homes were purchased, but did not realize that some of the townhouse units are 3-storeys in height. The residents raised the issue as to whether the 3-storey townhouses are an acceptable interface with the adjacent 2-storey single family homes.

Staff met with the townhouse developers, Mr. Dave Mann and Mr. Henry Yong, on May 17, 2000, and their position is that the townhouse project is being built in accordance with the approved Development Permit drawings. Building Division staff have inspected the buildings under construction and the building elevations, including foundations, have been found to be consistent with the approved building permit and lot grading plans.

On the issue regarding windows, the windows on the third floor are bedroom windows and cannot be eliminated because of Building Code requirements. The developer, however, is prepared to eliminate the second level balconies (potential social gathering areas) for those townhouse units along the perimeter of the site if the City will allow these balcony areas to be enclosed as part of the second level living space to compensate for the loss of balconies to these units.

In recognition of the neighbours' concerns, the developer's willingness to delete those balconies that are overlooking the single family lots, and the maximum density not being exceeded, the City has agreed to the proposed changes and accepted them as a minor amendment to the Development Permit. The phase 1 townhouses adjacent to the single family lots are currently being built without balconies, and the developer has agreed to make similar deletions for the remaining townhouse units along the perimeter for the remaining two phases.

While the proposed deletion of the balconies will help address, to some degree, the single family residents' concerns, Mr. Sprake is apparently still not content with the above solution and has requested Council to explore other avenues to halt further development of the townhouse project until the interface issue is resolved.

OPTIONS FOR CONSIDERATION

In accordance with Council's directive, staff have considered means to satisfactorily address the interface concerns expressed by Mr. Sprake. It was determined that there are three possible options. These options and their implications are described below.

1. Option A: Rescind Development Permit Approval

Under this option Council could consider rescinding the approval of the remaining phase of the Development Permit for the townhouse project. Building Permits would not be issued on the remaining phases until the townhouse project design is further reviewed and re-approval of the Development Permit is granted by Council. For re-approval the developer will likely be required to make major changes to the remaining townhouse units such as the elimination of 3-storey units along the perimeter of the site, in order to address the single family residents' concerns.

Implications

The City Solicitor advises against this Option.

2. Option B: Withhold The Issuance of Phase 3 Building Permit

Under this option Council could withhold the issuance of Building Permit for the remaining Phase 3 (28 townhouse units) under Section 929 of the Municipal Act until such time as the developer undertakes changes to the townhouse design to address the single family residents' concerns. However, Council must have passed a resolution to instruct staff to amend the RM-15 of the Zoning By-law to reduce building heights in order to withhold Building Permit issuance.

Implications

1. The Phase 2 Building Permit cannot be withheld under this option because its Phase 2 Building Permit application has already been made on April 28, 2000.
2. Amending the maximum building height in the RM-15 Zone will have implications on other existing and future townhouse projects throughout Surrey.
3. The City Solicitor advises against this Option.

3. Option C: Request the Developer to Make More Significant Design Changes for the Remaining Phases

Under this option the developer could be requested to voluntarily make design changes to the remaining phases such as increasing setbacks, providing additional landscape buffering, and/or possibly relocating the 3-storey

units from the perimeter of the site to the interior of the lot.

Implications

1. There is no incentive to the Developer to bear all the costs in implementing the design changes and the Developer has recently advised staff that further design modifications will not be considered.
2. Due to the maximum density already achieved in the current design, it is unlikely that any units from the perimeter of the site could be relocated to the interior of the site.
3. Without the Developer's full cooperation this Option could not be implemented.

CONCLUSION

The subject townhouse site is identified in the North Cloverdale West Neighbourhood Concept Plan (NCP) as suitable for townhouses. Rezoning of the subject site to the RM-15 Zone and approval of the Development Permit to accommodate 90 townhouse units was approved by Council on November 15, 1999. The Public Hearing was held on November 30, 1998, prior to the construction of the surrounding single family homes.

The delegation, Mr. Sprake and the adjacent residents, were aware of the approved townhouse project for lands adjacent their single family subdivision when they purchased their homes. Not until construction of the townhouses commenced did Mr. Sprake and the adjacent residents become aware of some units adjacent the single family area, being 3-storeys in height.

Following meetings with staff, the developer has made modifications to the building plans to eliminate balconies overlooking the single family lots. For reasons including costs and delays, the developer is not prepared to further modify their plans.

Staff have considered options to address the interfacing concerns held by Mr. Sprake and have reviewed these options with the City Solicitor. Given that the Development Permit was approved over 8 months ago and construction commenced with approved building permits on that basis, there does not appear to be any remedies available to the City that are supported by the City Solicitor to amend the plans attached to the Development Permit. However, in order to prevent a similar situation in the future, Council may wish to instruct staff to bring forward an amendment to the townhouse zones (i.e. RM-15, RM-30) to provide a better interface with abutting single family residential developments.

Murray D. Dinwoodie

General Manager

DC/kms Planning & Development Department

c.c. - City Manager

- City Clerk

- City Solicitor