



Corporate *NO: R231*

Report *COUNCIL DATE: November 19, 2001*

REGULAR COUNCIL			
TO:	Mayor & Council	DATE:	November 16, 2001
FROM:	General Manager, Planning & Development	FILE:	7901-0137-00
SUBJECT:	Proposed Rezoning for 32-Small Lot Development12192 and 12218 - 92 Avenue near Kennedy ParkRezoning By-law No. 14523		

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information;
2. Consider Third Reading of Rezoning By-law No. 14523 to rezone the site at 12192 and 12218 - 92 Avenue from RF to CD to accommodate a 32-lot subdivision based on the plan presented at the October 15, 2001 Public Hearing; and
3. Authorize staff to forward a copy of this report and Council's resolution to the community representatives.

BACKGROUND

The 1.8-hectare (4.6-acre) subject site fronts 92 Avenue and is immediately east of Kirkbride Elementary School and north of Kennedy Park (Appendix I). The applicant is proposing a rezoning from RF to CD to permit the development of a small lot single family residential subdivision consisting of 32 lots (Appendix II). A copy of the Planning Report to Regular Council Land Use is attached.

At the Public Hearing for the proposed rezoning, held on October 15, 2001, there were concerns expressed about the proposal and particularly the impact on the existing mature stand of trees on the site. A 90-name petition was also submitted, indicating opposition to the rezoning.

Prior to considering Third Reading, Council passed the following motion:

That the application be referred back to staff for further discussion with the applicant, staff, and community, and report back to Council.

DISCUSSION

Meeting with the Developer and Community

On November 6, 2001, staff from the Planning & Development and Parks, Recreation & Culture Departments met with the developers, the developers' engineering consultants and six area residents representing the views of those opposed to the proposed development. The President of the Green Timbers Heritage Society was also present at the meeting to voice concerns about the loss of trees.

The residents brought several photographs of the trees on the site to show what will be eliminated by the proposed development. They reiterated their concerns about the negative impact this development will have due to the removal of the existing trees for the construction of 32 houses on small lots and the opportunity that will be lost to preserve the green space and wildlife habitat. They cited the Official Community Plan policies for the protection of the natural areas and expressed a concern that the community is not getting any benefit in return for the development of compact lots.

The developer stated that the site is designated for urban development and not as a park in the Official Community Plan. Pursuant to the decisions by the Parks, Recreation and Culture Department, the proposed subdivision does not include 5% open space dedication but rather 5% cash in lieu will be provided.

Staff explained that the current RF zoning on the subject site, permits subdivision into standard single family lots. The proposal is to rezone the site to a CD Zone to permit subdivision into single family lots that are smaller than the standard size. The proposal complies with Council's adopted policy respecting the location of small lot developments. The applicant's arborist has indicated that there are 51 protected trees on the site: 14 of which are considered hazardous and will be removed; 28 other protected trees will also be removed; and 9 will be retained on private property. In total, 92 new trees are proposed to be planted on the 32 proposed lots.

In recognition of the community concerns regarding the loss of the mature forest situated primarily in the southern half of the subject site, staff presented the following four options (Appendix III) for discussion purposes:

1. Land exchange of the western arm of Kennedy Park fronting Holt Road for the subject site (Option 1);
2. Land exchange of a portion of Kennedy Park fronting 90 Avenue for the southern portion of the subject site where a majority of the mature trees are located (Option 2);
3. Land exchange of approximately $\frac{1}{4}$ of the subject site for an equal amount of Kennedy Park fronting 90 Avenue (Option 3); and
4. Dedication of 5% of the subject site along the southerly property line for an addition to Kennedy Park (Option 4).

The developer indicated that Options 1 and 2 would upset existing residents who would lose the portion of Kennedy Park abutting their homes. The area residents concurred.

The Parks, Recreation and Culture Department does not favour Options 3 or 4. Parks staff have advised that Kennedy Park is already one of the largest Neighbourhood Parks in the City. The existing size of Kennedy Park is sufficient to fulfil all of the amenity requirements in their park redevelopment plan. The additional small areas proposed, will not significantly improve the existing park.

The residents expressed a concern that the options presented are limited to exploring land exchanges within the boundaries of the existing park. They suggested that perhaps the possibility of rezoning a portion of the vacant industrial land (Appendix IV) to the east of the BC Hydro's property between 90 and 88 Avenues should be considered for the development of a single family subdivision. However, this land is privately owned, zoned IB and serviced to allow for an industrial development. Considering that there is a lack of serviced land in the City for business park developments and the land is privately owned, staff advised that this option is not achievable.

The residents urged that the City consider a land exchange with the developer elsewhere in the City. The Parks, Recreation and Culture Department has indicated that a land exchange in other areas of the City cannot be pursued because there is no surplus parkland elsewhere.

The meeting concluded with the developer being requested to consider the comments and to respond to staff accordingly.

Continuing Opposition from the Community

Since the Public Hearing on October 15, 2001, the area residents have continued to express concerns about and opposition to the proposed development as follows:

- A petition containing 189 signatures (based on one signature per residence, the total number of signatures in opposition now amounts to 246 including the signatures contained in the petition that was submitted before the Public Hearing);
- 5 letters;
- 3 e-mails; and
- 10 phone calls.

Most concerns include the negative impact of the development from the perspective of loss of the bird and wildlife habitat, a bog and the mature trees and shrubs on the site. Some concerns have also been expressed about the potential for aggravating the existing traffic congestion due to the additional traffic from the proposed single family development.

Developer's Response

In response to the community's concerns, on November 7, 2001 the developer submitted a revised proposal (Appendix V). The developer proposes to voluntarily dedicate a portion in the south-west corner of the site as

an addition to Kennedy Park in order to preserve 7 significant trees within the public space. This voluntary dedication amounts to 2% of the site area. In addition to this, the developer has also offered to pay cash-in-lieu of 5% dedication for park.

The developer states that significant trees are not only on the subject site. Several trees are also on the school and park sites contrary to the opinion of the community that most of the forest is on the private land. Therefore, some of the existing forest can be retained within the school and park sites.

Staff from the Parks, Recreation & Culture Department have reviewed the revised plan showing the 2% park dedication. It is their opinion that the likelihood of the proposed 7 significant trees surviving is uncertain and, therefore, they are not prepared to recommend acceptance of the proposed dedication. They recommend that the developer pay cash-in-lieu of 5% dedication, as initially requested.

Additional Comments from the Parks, Recreation & Culture Department

As stated previously, Kennedy Park is one of the largest Neighbourhood Parks in Surrey (14 acres versus 6 to 7 acres that represents the normal standard). Furthermore, purchasing the land would be very expensive and would divert funds away from other areas of the City with much greater need for park acquisition. The Parks, Recreation & Culture Department is very concerned about setting a precedent of acquiring treed portions of development parcels to satisfy neighbourhood concerns when there is no real requirement for the space and when the land, while nicely treed, is not a sensitive or significant natural area.

Options for Council's Consideration

In view of the continuing opposition from a majority of the area residents, the developer's response and the position of the Parks, Recreation and Culture Department the following options are available:

1. Instruct staff to acquire the entire subject site, through negotiation with the developer or, failing that, through expropriation, for park purposes including the preservation of most of the existing trees.

According to the Parks, Recreation and Culture Department, while acquiring this land will enable park development to be located closer to 92 Avenue and thereby closer to the more populated area, additional land for park development is not needed. The Realty Services Division has advised that the acquisition would be costly and Parks staff have indicated that the funds required would be at the expense of other areas with much greater need for park acquisition. This option is not supported by the Parks, Recreation & Culture Department.

2. Instruct staff to acquire approximately one-third of the southerly portion of the subject site (Appendix VI) for park and tree preservation purposes including the preservation of most of the existing trees.

This option would not be the most preferred option from the perspective of either the developer or the community and based on the past discussions, it would appear that the developer might not be willing to sell even a portion of their lands. However, as a compromise, it would allow the developer to partially retain their intent to develop single family lots and it would also make the construction of 91A Avenue more economical due to the road serving lots on both sides. At the same time, this option would preserve part of the existing forest on the site, which would be somewhat in keeping with the wishes of the community. It should be noted, however, that if the developer is not prepared to willingly sell a portion of their lands, the acquisition could be expensive and the Parks, Recreation and Culture Department does not recommend the acquisition of any additional lands for Kennedy Park.

3. Instruct staff to accept the applicant's revised subdivision plan including the voluntary dedication of a portion of the site for an

addition to the existing park and 5% cash-in-lieu, and give Third Reading to the Rezoning By-law No. 14523.

This option, offered by the developer, is not recommended by the Parks, Recreation and Culture Department because they question the likelihood of the survival of the trees within the proposed dedication area. They recommend that the City require 5% cash-in-lieu only for park. It is also questionable as to how this would improve the park or to what extent it addresses the concerns of the community.

4. Give Third Reading to the Rezoning By-law No. 14523 without any changes to the subdivision plan presented at the October 15, 2001 Public Hearing.

This option would not meet with the approval of the majority of the community as attested by the concerns raised at the Public Hearing and in the meeting on November 6, 2001 and expressed through an additional petition, letters, e-mails and several phone calls since the Public Hearing. This option is supported by Parks, Recreation & Culture Department who do not support any expansion of the existing park, either through the acquisition of additional lands or from the dedication of land for park. In their opinion, the existing parkland is large enough to fulfil their need, and that the parks acquisition program should not benefit one community at the expense of others.

5. File Rezoning By-law No. 14523.

This option would not allow the developer to fulfil their intent to develop small lots. Given that the site is currently zoned RF, they can proceed with its development for standard single family lots (approximately 26 lots) upon the successful completion of a new subdivision application. However, the number of significant trees that can be preserved on site would likely remain unchanged and the concerns of the community would also remain.

CONCLUSION

Staff have met with the developer and representatives of the community as instructed by Council following the Public Hearing on October 15, 2001 and discussed certain options to determine whether there is an option that would be mutually acceptable to the developer, the community and the City. However, no mutually acceptable solution has been found. Given that the Parks, Recreation & Culture Department has advised that there is no need to expand the existing park, staff recommend that Council give Third Reading to the Rezoning By-law based on the current subdivision plan presented at the Public Hearing. It is further recommended that Council's resolution and a copy of this report be forwarded to the community representatives.

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General Manager

Planning & Development Department

BP/kms

c.c. - General Manager, Parks, Recreation & Culture
- General Manager, Engineering

APPENDICES

Appendix I Site Context

Appendix II Existing Proposed Subdivision Plan (presented at the Public Hearing)

Appendix III Options 1 to 4

Appendix IV Suggested option by the area residents

Appendix V Revised Plan

Appendix VI Option for the acquisition of a portion of the site

Appendix VII. Planning Report dated October 1, 2001 on the subject Rezoning Application, to Regular Council

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