

MEMORANDUM

March 17, 2009

TO: Mayor and Councillors

CC: Dr. Penny Balem, City Manager
Dave McClellan, General Manager of Community Services
Cameron Gray, Managing Director, Social Development
Brent Toderian, Director of Planning
Rick Michaels, Assistant Director, Development Services
Michael Naylor, Senior Rezoning Planner

FROM: Rob Whitlock
Senior Housing Planner

SUBJECT: Text Amendment to Section 10.12 of Zoning By-law (Requirements for Demolition of Residential Rental Buildings)

At the conclusion of the meeting on the demolition of rental housing at 4550 Fraser Street, Council adopted Recommendations A & B of the staff report. There was limited discussion related to the second recommendation, and I wanted to provide you with an overview of the proposed amendment and its impacts, and a short comment about the expected process towards a Public Hearing.

The recommendation is as follows:

"B. THAT Council instruct the Director of Planning to apply to amend section 10.12 of the Zoning and Development By-law, generally as set out in Appendix A, to extend to commercial zones the requirement that a development permit be issued and a building permit issuable before issuance of a demolition permit for rental housing units;

AND THAT Council instruct the Director of Legal Services to prepare the necessary amending by-law, generally in accordance with Appendix A, for consideration at the Public Hearing."

Section 10.12 of the Zoning and Development By-law (attached in full text as an appendix to this memo) outlines the requirements for a demolition permit for any development resulting in the demolition of a building, and then addresses specific requirements if the building is residential rental accommodation. The following is a summary of Section 10.12:

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- 10.12.1 identifies the need for a demolition permit for all buildings;
- 10.12.2 specifies that in the case of a residential rental building that a demolition permit will not be issued until the respective development permit is issued, and that the development permit will not be issued until the related building permit is ready to be issued; and
- 10.12.3 Exempts residential rental buildings in C, M and I zoning from the requirements of 10.12.2

The overall purpose of the regulations in subsection 10.12.2 is to ensure that the majority of the permitting work is completed before the demolition permit is issued. The regulations are intended to avoid issuance of a demolition permit, demolition of rental accommodation and a vacant site while the issuance of development and building permits are still in progress. There is also a greater likelihood that the development will proceed if all permits are in place. As we advised Council with 4550 Fraser Street, the owner/developer may seek a demolition permit at any time without regard to either a development or building permit under the present exemption in subsection 10.12.3.

The proposed amendment simply strikes the "C" from 10.12.3, thereby applying the permitting requirements for residential rental accommodation under 10.12.2 to "C" zones.

UDI (Urban Development Institute) has indicated that this will cause undue hardship to the owners of C zoned properties and small businesses throughout the city. The proposed change to Section 10.12 will extend the start of demolition at minimum an additional two months. The Residential Tenancy Act requires a 2-month notice for evictions related to demolition of rental accommodation *after all necessary permits are obtained*, and consequently the zoning change will mean notice of eviction can only be served at the end of the permitting process when the demolition permit is issued.

The change will provide additional certainty for tenants of any building proposed for demolition. The life of rental accommodation will be extended for the same period that it takes to achieve the demolition permit. The change is also likely to have the effect of reducing the uncertainty which was described by many tenants at 4550 Fraser Street when the point of demolition can occur only when all the permits are in order.

Further to the discussion at Council and responding to the request of the UDI, a tentative date of April 7, 2009 has been set for a meeting of the City/UDI Liaison Committee, prior to scheduling the proposed amendment for Public Hearing, likely in May or June.

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The following is the full text of Section 10.12 of the Zoning and Development By-law

“10.12 Demolition of a Building

10.12.1 Except as exempted by the provisions of section 5, no person shall carry out any construction, engineering or other operation in, on, over or under any land which will result in the demolition of a building without first obtaining a development permit for the demolition from the Director of Planning.

10.12.2 Except as set out in section 10.12.3, where development necessitates the demolition of existing residential rental accommodation, no development permit shall be issued for the demolition unless and until a development permit for the new development has been issued. The development permit for the new development shall not be issued unless and until all building permits for the new development and a building permit for the demolition are issuable.

10.12.3 The following cases of residential rental accommodation are exempted from the provisions of section 10.12.2:

- (a) where located in RA-1, or any C, M or I district;
- (b) where located in a building damaged or destroyed by fire to the extent of 60 percent or more of its value above the foundations, as determined by the City Building Inspector;
- (c) where located above a commercial use and where the residential rental accommodation does not predominate in terms of floor space;
- (d) where located in a building deemed by the City Building Inspector to be beyond re-use or rehabilitation for residential purposes;
- (e) where located in a building deemed by the City Building Inspector to be appropriate for demolition because of hazard to public health or safety;
- (f) where located in a multiple dwelling in which units are individually owned in accordance with the Condominium Act and no fewer than 75 percent of them are owner-occupied;
- (g) where located in a multiple dwelling consisting of a co-operative tenure established prior to legislation permitting condominium ownership; or
- (h) where located in a building deemed by City Council to be appropriate for demolition because the premises are a nuisance.”