Kennett, Bonnie

From: Jan Pierce s.22(1) Personal and Confidential
Sent: Thursday, March 26, 2015 8:46 PM
To: Correspondence Group, City Clerk's Office; Robertson, Gregor; Affleck, George; Ball, Elizabeth; Carr, Adriane; Deal, Heather; Louie, Raymond; Meggs, Geoff; Jang, Kerry; Reimer, Andrea; Stevenson, Tim
Subject: Downtown Official Development Plan Amendments

March 26, 2015

RE: Amendments to Downtown Official Development Plan

To Mayor Robertson and city councillors,

The West Kitsilano Residents Association is writing to express our opposition to the changes to the Downtown Official Development Plan being considered at Public Hearing on March 24 and 26.

The proposed changes are very complex. Despite careful perusal of the information boards, we can find no clear objective information on the impacts of the changes and the pros and cons of each.

The Board of Directors of our Association is unanimously opposed to any amendments to the Plan that would reduce the amount of social housing being provided for those most in need of assistance. The changes proposed would seem to reduce housing for those most in need and replace very low cost housing units with market rental at higher rental rates that can not be afforded by those with the lowest incomes.

We also oppose changes that would reduce accountability and transparency and result in less public input into relaxations of development densities. The lack of any scale models or drawings showing the possible results of the relaxations proposed is particularly troubling. In our view, the City has not provided the information in plain language in a way that an educated and informed citizen can fully appreciate.

We believe that these types of relaxations should be dealt with on a one by one basis to determine their neighbourhood impacts. This is particularly important in a dense part of the city such as the downtown where the impacts of a building upon its neighbours can be profound.

Delegating power from council to the Development Permit Board reduces the accountability and ability of residents to influence outcomes.

We believe that these changes should be opposed until clear and full information about potential impacts is made available to the public and their input from that information is received and considered.

Thank you.

Jan Pierce

Larry Benge

Co-Chairs

On Behalf of the Board of Directors

West Kitsilano Residents Association

I am a co-founding member of the Community Association of New Yaletown. We are known as CANY.

For those who don't know, New Yaletown is not the same neighbourhood as Yaletown. *New* Yaletown is a *mixed income* neighbourhood with one of the densest concentrations of social housing in the City.

I moved to New Yaletown from a single family home on the West Side. I choose to live in a dense neighbourhood, with towers, and with social housing. I like it here.

I want *more* social housing in Vancouver. I want more social housing in New Yaletown. I want more social housing *near* where I live.

CANY strongly supports more social housing in *our* neighbourhood. Social housing residents have signed our petitions, and have even participated in *drafting* the petitions.

It's worth also noting that CANY is not solely focused on development or on social housing. We're called on by our community to deal with all kinds of issues in our neighbourhood. We're a friendly, diverse bunch. We don't like having to sue the city.

CANY recently posted a petition against the amendments. In less than two days, this petition has gathered nearly 600 signatures, from all across the city. Other neighbourhoods fear that what's being done downtown will be repeated in their neighbourhoods, next.

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Speaking notes - Alan Albert

I apologize if I'm emotional about this too. CVN. Pro social housing. In my neighborhood.

The 7 Deadly Sins:

I'm going to outline 7 serious flaws in the proposed amendments. Any one of these flaws is serious enough to require Council to reject the proposed amendment.

These 7 "Deadly Sins" are:

- Improper Notification
- Improper Information
- Improper Participation
- Improper Densification
- Improper Definition
- Improper Consultation
- Improper Delegation

Flawed Process

Flawed Substance

I will outline each of these Deadly Sins. After each, I will ask questions relating to each of them. Council should require City Staff to answer each of these questions.

I will then offer a challenge to the Mayor, to Council, and to City Staff to make good on their legal obligation for meaningful public participation. I am hopeful that by discussing our shared goals, we can quickly reach an easy consensus on what types of amendments are appropriate.

Notification

The notifications about the proposed amendments were grossly misleading. The notifications failed to mention the most significant impacts of the amendments:

- The thousands of yellow cards made no mention that the very definition of Public Housing was being significantly changed.
- The cards made no mention that the requirement to support low income housing was being completely eliminated.
- The cards made no mention that housing that a building with 30% of the units qualifying as Social Housing were being defined as 100% social housing.
- The cards made no mention that different definitions of Social Housing would apply to different parts of the downtown area.

This improper notification minimized the importance of the Public Hearing, and served to reduce public participation.

City staff say that thousands of people were informed of this public hearing. For City staff and Councillors to claim that the only violation of fair process cited in

the Supreme Court ruling was that more people had to be informed is simply false.

The Judge's ruling about notification was not just about the number of people being notified. It was also about the *accuracy, clarity* of the notification. The city is required by law to inform the public, accurately and clearly, about the substance of what is being decided.

To claim and act as if increasing the number of notifications sent addresses this violation of fair process is not just misleading. It verges on contempt.

> **Why did the yellow cards not mention that the definition of Public Housing was being significantly changed, that the requirement to support low income tenants was being eliminated, and that a building with 30% of the units defined as social housing would be legally defined as 100% social housing?**
>
> **Does City Staff not consider these to be important enough elements of the proposal, that the public should not be notified about them?**
>
> **Would more people be speaking against these amendments, if proper notification about the content of the amendments were given?**

CANY has specific recommendations for correcting the sin of Improper Notification that we would like to discuss later.

2 Information

The Judge also required the City to properly inform the public.

Contrary to what was stated at the start of this Public Hearing, the Supreme Court ruling was *not* solely about the requirement to give proper notice. The ruling also confirmed the legal requirement for City Hall to properly inform the public, presenting accurate information sufficient for the public to understand the pros *and cons* of the matter at hand. The information must be intelligible, clear, and simply stated.

City staff has fallen far short of that legal requirement.

- The amendment itself is confusing, poorly worded, and internally inconsistent.
- Numerous provisions are written in the negative, stating what's excluded, rather than stating what is included. Sections that establish clear limits are later negated, stating that they don't apply.
- The "correction" that was presented just a day before the public hearing was filled with double-speak, saying that the correction didn't make any changes. The Track Changes redlining lacked any indication of what was changed.
- The language used to describe the amendments requires a graduate degree to understand, according to language analyzing software.
- Insufficient information has been provided for the public to assess the *impact* of the proposed changes. No information was presented showing how neighbourhoods might change as a result of the amendments.
- At the Open House, the boards presenting the changes skirted the major consequences of the proposals. No information was posted regarding the controversial aspects of this proposal, which so many members of the public have written and spoken about at this hearing.
- A petition signed by over 550 people from all over Vancouver, and submitted well before the Public Hearing deadline, was omitted from the public input record, and was not included in the tally of public input at the start of the public hearing.
- *Written* submissions from over 150 people were also included as additions to the petition. These written submissions were also omitted from the public input record that was presented at the start of this public hearing. This grossly misrepresented to Council that public opinion is mixed. Public opinion is not mixed. Public opinion is overwhelmingly against these proposed amendments.
- The *online* submissions are largely opposed to the amendments, yet this strong negative weighting is not indicated online. They're just listed as online submissions. This is misleading to Council.

- The 11 submissions labeled "Support - Form Letter for March 24, 2015 (1st distribution)" are actually 100% opposed. This is inaccurate and misleading to Council. Public input is overwhelmingly in opposition.
- Submissions from the Open House that were strongly opposed to the amendments, and which also include some positive things to say about parts of the amendments, are improperly classified as "support/non-support mix". This provides misleading misinformation to Council. No means no.
- Submissions from the public in *favour* of the amendments were not properly labeled as being made by parties that have a financial interest in Council's decision. [redacted] It was not disclosed that the ~~vast~~ majority of those supporting the amendments are connected with institutions with a financial interest. This is misleading to Council and the public.
- It was stated by a City Councillor at this Public Hearing that this proposed amendment is a take-it-or-leave-it proposal, and that motions to change the amendment were not possible. This is false. The Vancouver Charter gives City Council not only the *right* to present motions to amend, but the *obligation* to consider public input. To state otherwise is misleading to Council and to the public.

Why are the materials presented to the public, including the amendments themselves, written is such a confusing way?

Can they be rewritten to be intelligible?

Why is the information presented in such a way as to willfully hide the controversial aspects, making it extra difficult for the public to evaluate the pros and cons of the proposals, or to even know if they should care?

Can you confirm that these proposed amendments can indeed be modified through additional motions? If not, why not?

CANY has specific recommendations for correcting the sin of Improper Information that we would like to discuss later.

3 Participation

The proposed amendments were drafted without the participation of *any* members of the public.

- City staff referred to consultation that took place in the DTES and the West End regarding the development plans for those areas. However, the vast majority of the area covered by the DODP was not included in those consultations.
- The vast majority of the area covered by the DODP has had zero opportunity to participate in this process. Until this public hearing, the bulk of the downtown area has been locked out of any input into the proposed amendments.
- The online submission form has been broken for the last several days, preventing additional online submissions. Online submissions are largely negative; the number of people in opposition has therefore been limited by the broken input form.

To claim that the Downtown area had our opportunity for consultation as part of the West End or DTES consultation processes is simply inaccurate, and misleading to Council.

City staff has tried to characterize the judge's ruling as solely being about notification. This is false. Public input that is considered by Council is essential to a fair process. Read the ruling for yourself.

> **Why was the public in the Downtown area not consulted *before* the amendments were drafted?**
>
> **Will the public be given an opportunity to propose modifications to these amendments?**

CANY has specific recommendations for correcting the sin of Improper Participation that we would like to discuss later.

4 Densification

Automatic Density Bonusing is an end-run around the normal Public Hearing process that requires a *rezoning* for density beyond the limits set by the Official Development Plan. The new density bonuses have no specified limits, and don't require rezoning.

- Section 1 sets limits to the density that can be allowed, including limits specifically for Social Housing. The 3.13 amendment overrides those limits, rendering those limits meaningless. Section 3.13 proposes to allow density beyond the allowable maximum FSR for Social Housing, if the building contains Social Housing. This is preposterous double-speak.
- Any change in FSR beyond allowable limits should be considered a *rezoning*. The density limits for Social Housing detailed in Section 1 should actually mean something. Section 3.13 should be changed to allow increases in density *up to* the limits set forth in Section 1.
- The proposed amendments to Section 3.13 would allow the DPB to permit an unspecified, and therefore unlimited increase in density.

If the amendment to Section 3.13 is approved, do the density limits for buildings with Social Housing specified in Section 1 actually mean anything?

Do the proposed amendments remove the requirement for a rezoning for density bonusing?

Is there any limit to the amount of density that the DPB could allow for social housing?

CANY has specific recommendations for correcting the sin of Improper Densification that we would like to discuss later.

5 **Definition**

Social Housing is defined in such a way as to be completely confusing.

- In some parts of the proposal, Social Housing refers to a unit.
- In other parts, it refers to a building.
- In other parts, it refers to a development.
- And in other parts, it refers to a site.

This blurring of the definition is confusing, and results in a lack of clarity. Lack of clarity will give rise to unnecessary disputes.

- The definition of Social Housing, even as it relates to a unit, is ill-advised.

Basing the definition on a *percentage of units*, rather than percentage of floor area, encourages developers to make social housing units as tiny as possible, reducing their livability.

With the proposed definition, imagine a 100-unit building with 30 Social Housing units and 70 market rate units, plus 4 floors of commercial space. Those 30 Social Housing units could average less than 300 square feet. Those 70 market rate units could average 1000 feet or more. As a result, the 9000 square feet devoted to social housing could make up roughly 10% of the residential area of the building – and less than 5% of the building area.

Under the definition proposed, a building that's 5% social housing would qualify for the full density bonusing of a 100% social housing building. This is wrong.

Worse, the tiny units can rent for more on a per-square foot basis, than larger luxury units.

1. **Why not standardize the definition of Social Housing to apply only to one specific type of housing – for example a unit or floor area?**

2. **Why make up a new definition of Social Housing, rather than using a standard definition used across the country?**

CANY has specific recommendations for correcting the sin of Improper Definition that we would like to discuss later.

There are different levels of need. They all need to be addressed with different definitions.

3. Why not encourage the development of a few units of social housing in any building, not just a dedicated social housing building?

6 Consultation

In this amendment, City staff are proposing that Council delegate its authority to determine land use to the Director of Planning and the DPB, bypassing Council's ability to consult with the public in making land use decisions.

- As mentioned earlier, this amendment would bypass the legal requirement to rezone for developments that are not consistent with the DODP. As written, there would never be any need for a rezoning application for a Social Housing building of *any* density, as Section 3.13 removes all such applicable density limits.
- This bypassing of the rezoning process also appears to eliminate the requirement for an Open House, a Public Hearing, and any other opportunity for public input. It places sole discretion for the allowable density in the hands of a single unelected official.
- Even though Council approval is required for the density bonus at the development permit stage, this approval comes far too late in the process. By the time a project reaches development permit stage, both the developer and City staff would have countless hours and dollars invested in the project. At this stage, things are pretty committed.
- As worded, it is unclear whether City Council would have any real power to say no to a development permit at this stage. Council approval comes far too late in the process for public input to have any real impact on Council's decision – if public input is allowed at all.
- The Vancouver Charter quite clearly gives City Council authority for land use decisions. This proposed bylaw appears to delegate this authority to the DPB, which is not an elected body.
- By delegating this authority to the DPB, it also appears to be bypassing the opportunity for public input.
- It was claimed on Tuesday that the Supreme Court ruling was solely about Notification, and that there were no complaints about public participation. To the contrary, the judge found serious problems with the consultation. To allow Council members to vote according to the rule of law, perhaps we should adjourn to give the Councillors time to read the judge's decision for themselves, rather than rely on City Staff's misinterpretations.

Would Section 3.13, as amended, enable density bonuses beyond the limits set in Section 1 to be granted without requiring a rezoning?

Would Section 3.13, as amended, require an Open House or a Public Hearing as part of the Council Approval process?

Would deferring Council Approval to the development permit stage limit the impact the public's ability to affect what gets built or is this really to little, too late?

7 Delegation

- In a separate motion on March 24, Council considered "Miscellaneous Amendments to the Zoning and Development By-law, Downtown Official Development Plan (DODP), Downtown Eastside Oppenheimer District Official Development Plan (DEOD ODP), the Southeast Granville Slopes Official Development Plan (SEGS ODP) and Housekeeping at http://former.vancouver.ca/ctyclerk/cclerk/20150324/documents/p2.pdf."

- Council should be aware that Sections 2, 3, 6 and 7 of the above amendments **remove the Director of Planning's "Duty" to enforce the law**, and replaces it with the far weaker "Authority" to enforce the law. This change effectively grants to a single unelected official the choice of whether to enforce or not enforce City bylaws.

- If amended as written, the Director of Planning could choose to not enforce any social housing provision, any density or height limit, or any other bylaw, without Council or public oversight.

- The Vancouver Charter is clear regarding the role of the Director of Planning:

  560. *The Council may appoint a Director of Planning, who shall have such **duties and powers** as the Council may from time to time prescribe.*

The Charter says duties, not "authorities".

Regarding the replacement of the term "duty" with the term "authority," Is it the intention of the proposed amendments to grant the Director of Planning the ability to decide, without Council or public oversight, which bylaws to enforce and which ones to ignore?

If not, what provisions are in place to ensure that City bylaws are actually enforced by the Director of Planning?

Should City Council cede that obligation to a single unelected staff member?

Conclusion

We were heartened when we heard the Mayor's apology.

We were encouraged when we read the judge's ruling requiring that Council "scrupulously" consider public input.
We were positively thrilled when we heard Brian Jackson quoted as saying that he was launching the City's most extensive notification *and consultation* initiative ever.

So when the proposed amendments were introduced without any consultation at all, we were very disappointed. This isn't what we had been led to expect.

Even at this public hearing, only two Councilors have asked speakers what amendments they'd like to see, and those questions were only about very specific aspects of the agreement.

So we're issuing a challenge to the Mayor, to Brian Jackson, and to City Council to actually consult as they claimed that they would, and as the judge has stated is required by law.

We challenge City Council to consult with us right now, or at a time of your choosing, and discuss what amendments should be made to the DODP for our shared goals. We have specific proposals we are ready to discuss.

Are you going to automatically reject any and all proposed changes? Or are you open to hearing and discussing improvements that the public would support?

Stephen remix – no reply.

In addition to these well-publicized reasons, there's more to consider:

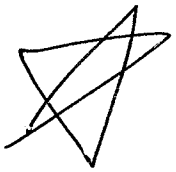
- **The City's approach to affordability and homelessness is clearly not working.** Despite (or because of) the current ~~efforts~~ policies, housing costs and homelessness are both increasing. These facts are undeniable.

These DODP amendments only increase and lock in the counter-productive policies that have directly led to *higher* housing costs and *increased* homelessness.

We now have the opportunity to do better. I had hoped that the Mayor's apology and the recent Supreme Court ruling provided an opportunity to open the discussion about how better to achieve what I believe are **our shared goals of increasing affordability and reducing homelessness**.

Sadly, instead of a discussion, the City is rushing ahead with an attempted end-run around the Supreme Court ruling, presenting proposed changes that were drafted

without *any* public input at all. All the public gets to do is to say whether we like the changes or not. **There is a better way, and now is the time to take that opportunity**.



- **The current approach to funding Community Amenities and Social Housing is fundamentally flawed and counter-productive**. Currently, the City's primary way to raise the necessary funds for Community Amenities and Social Housing is to, in effect, "sell" density beyond the current zoning limits. This CAC/DCL approach is demonstrably counter-productive, as market data clearly indicates. Current policies provide the greatest profit to developers of the densest buildings, motivating the development of ever-increasing density. The **developers of these outsized buildings are then unfairly required to bear the entire burden of funding Community Amenities and Social Housing** for a neighbourhood on their single project.

Moreover, the BC Ministry of Community, Sport, + Cultural Development has ~~[illegible]~~ provided a guide to municipalities ~~[illegible]~~ on this topic, dated March 2014.

City policy runs strongly counter to the BC Ministry's guidance. I urge all councillors to read this guidance before voting.

These increased developer costs are inevitably reflected in increased costs for the very housing that the policies are supposedly intended to reduce. These policies directly increase housing costs. A better approach would spread the burden of paying for Community Amenities and Social Housing across as broad a funding base as possible.

So I have a question for City Council and for City Staff:

- **Given all this confusion and frustration around the proposed amendments, why can't we discuss how better to achieve our shared objectives**, rather than simply repeating, and intensifying, the repeated failures of the past?

Please vote No on the proposed amendments to the Downtown Official Development Plan.

Then let's sit down and start an open discussion about how best to achieve our shared goals.

Thank you.

Additional Questions:

Why is Council proposing these amendments?

Is it because they have already been approving developments under the flawed amendments (Bylaw 10865 and 10929)?

Has Council received *in camera* reports about these amendments?

If so, we have a right to know that because the public has a right to know what information Council is considering in making its decision. That right was confirmed as part of the Supreme Court ruling.

I am confused about the process for decision-making here. It it seems very unfair. Council is obviously considering other factors that we do not know about – specifically, about Brenhill and the 15 halted developments. If considerations relating to those developments are why council is pushing this forward, we have a right to know that.