

Ludwig, Nicole

From: Frederick L. O'Hagan s.22(1) Personal and Confidential
Sent: Monday, July 17, 2017 4:33 PM
To: Public Hearing
Cc: Burpee, Heather; Robertson, Chris; Richard Cook; Phil Mondor
Subject: Fw: Public Hearing - Sign By-law Update - Tuesday, July 18, 2017 Public Hearing

To: City Council, for Public Hearing

Subject: Sign By-law Review: New Sign By-law and Sign Fee By-law Changes at Public Hearing, July 18, 2017

This is to comment on the proposed new Sign By-law which is "focused on business identification signage to simplify and clarify the sign regulations to reflect best practices, reduce appeals for hardship and be reformatted to be more efficient and user friendly."

I have two suggestions to make regarding the By-law provisions recommended by City staff. In summary:

1. potentially affected property owners should be notified and given opportunity to comment about applications for signs which seek a Sign By-law relaxation, and
2. illuminated business signs within 30 m of residential, hotel and care facility premises should be turned off between the hours of 11 pm and 7 am or when the business is not in operation.

My recommendations are based on a long and unhappy experience regarding the City process for a proposed non-conforming (over-sized) illuminated projecting sign at Telus Gardens Residential near my hotel. Serious concerns about the anticipated impacts of this sign on hotel guests were raised, and addressed, at a Public Hearing and at a subsequent Development Permit Board meeting. Minutes of a Board of Variance meeting seeking Sign By-law variances for 56 signs at Telus Gardens Office and Residential indicate there was no notification of potentially affected neighbours and no consideration of City Council rezoning approval conditions and Development Permit Board development approval conditions. Clearly this was an unsatisfactory and unacceptable process.

I communicated this experience and a recommendation to the city planners in October last year, early during the City's Sign By-law review process. The City staff response contained a pleasant surprise that "In terms of the proposed projecting sign at 777 Richards Street, no sign permit has been issued for the sign and the Board of Variance approval expired in November 2015. Should the owner/tenant submit an application for the sign, it will require another appeal to the Board of Variance. Adjacent property owners will be notified if there is an appeal."

The recommendations which I am making regarding a new Sign By-law have the simple objective of seeking that no other property owner should have to go through anything like what I did regarding proposed non-conforming signs at Telus Gardens. The changes which I recommend to Sign By-law provisions and permitting procedures would go a long way to prevent my bad experience from happening to anyone else.

1. Notification of Neighbouring Property Owners

City staff recommend three significant changes to Sign By-law provisions and the sign permitting process which I fully endorse. The first two were in my suggestions to City staff last October. My suggestion that City staff should consult with potentially affected neighbours is consistent with all three.

1.1 First, staff propose that relaxations of the Sign By-law no longer be considered by the Board of Variance but that the Director of Planning be provided with the authority to administer relaxations to the Sign By-law for unnecessary hardship, heritage, special events and new technology. This will give the Director of Planning flexibility to relax the by-

law to address many of the issues presently resulting in appeals (Staff report: “on average, ... the Board of Variance has received 50 appeals, annually”).

1.2. Second, staff propose that the Sign By-law include new precise definitions for unnecessary hardship, along with regulations that provide clear guidance as to when a relaxation can or cannot be considered. The proposed regulations will allow relaxations where there are unique physical circumstances that are peculiar and specific to the site that make it difficult to comply with the regulations. The staff report states that unnecessary hardship “does not include mere inconvenience or preference for a more lenient standard or a more profitable use”. Detailed criteria are to be used in considering a relaxation: how the proposal fits with the intent of the regulations, the context of the neighbourhood, the size and location of the site/premises, site topography and building and site design. Also taken into consideration are the potential impacts of the relaxation on public safety and adjacent properties and the submission of any interested parties.

These two measures above are similar to what I recommended to City staff for improved sign permitting procedures and regulations. They were suggested to me by my consultants who described how the City’s zoning regulations provide a model in the conditional uses, height and density which can be permitted in many zoning districts. The Director of Planning, or the Development Permit Board in complex or controversial circumstances, is given the authority to approve developments which exceed maximum height and density regulations provided that consideration is given to “applicable policies and guidelines”, “the submission of any advisory group, property owner or tenant” as well as various substantive considerations. The “submissions” of course implies appropriate notification, including mailings to surrounding property owners (more on this below).

1.3. A third element in the proposed Sign-By-law changes is a restructuring of the sign application review process to have two application streams. A simple stream will deal with applications which comply with the by-law and will receive quick review and processing. A complex stream is proposed for applications that require a more detailed review, generally those that do not fully comply with the Sign By-law and involve a relaxation (Staff report: “an average of about 650 sign permits per year (are issued) and 90 percent of all permits typically comply with the by-law.”)

This separation between simple and complex streams corresponds to the two approval processes for outright and conditional uses and developments, with applications for outright developments which conform to regulations being permitted as-of-right while applications for conditional uses and development being given greater scrutiny, public notification, possibly review by the Urban Design Panel, and then decision by Development Permit Board.

1. 4. As noted in (1.2) above, relaxations will be considered relative to eight detailed criteria “in determining whether or not there is unnecessary hardship sufficient to just a relaxation.” An important one in my view is “potential impacts on existing adjacent land uses” (more about this in 2. below).

The criterion which I very strongly support and wish to speak to is “the submission of any advisory group, property owner or tenant.” I am concerned that this criterion cannot be met unless these various parties are informed about the sign application seeking a relaxation. Obviously this requires appropriate notification, including mailings to surrounding property owners and in some cases, an open house. Also, opportunity to provide comment is needed. To summarize, potentially affected property owners should be notified and given opportunity to comment about applications for signs which seek a Sign By-law relaxation

These matters are not explicitly addressed in the proposed Sign By-law provisions and they are not discussed or even mentioned in the staff report. My consultants advise that there are also no provisions for notification and consultation in the Zoning By-law but rather that it is a matter of administrative practice. Perhaps the same applies to the proposed new Sign By-law? Some clarification and assurance from staff about this is recommended because the City should definitely consult with potentially affected neighbours when Sign By-law relaxations are requested.

2. Regulation of Illuminated Signs within 30 m of Residential, Hotel and Care Facility Properties

City staff propose new regulations for illuminated signs. All signs may be illuminated unless otherwise specified and illumination regulations are proposed which would minimize light that might spill onto adjacent residential units. I strongly support these new measures, however there are two aspects about which I recommend further improvement.

2.1 First, it is not only the occupants of residential units which can be affected by too bright illumination but also the occupants of hotel rooms and care facilities. The term "residential units" which is proposed in the new by-law does not encompass the broader range of people whose quality of sleep could be impacted by an illuminated sign. Some clarification of this is recommended.

2.2 Second, in residential zoning districts, referred to as the "Residential Sign District", "illuminated signs within 30 metres of a dwelling unit facing a sign area, must be turned off between the hours of 11 pm and 7 am or when the business is not in operation."

This is as it should be. My hotel has a tall neon sign, the oldest freestanding sign in the city, and we turn it off every evening at 11 pm. I believe that this practice is appreciated by the residents immediately across the street at the Doug Story Apartments (Coast Foundation's social housing at 768 Richards St.), the residents in L'Hermitage en Ville at 788 Richards and the hotel guests at L'Hermitage Hotel. I had always assumed this was a requirement and my guess is that this practice of turning off illuminated signs late in the day is fairly widespread in the downtown area.

It is this 11 pm turning off of an illuminated sign which I wanted in Telus Gardens Residential within 8 m of the hotel and visible to 21 of the hotel's 52 rooms which have windows in the sideyard adjacent the TGR tower. Happily, after protracted discussions, we were able to achieve an agreement about this, and related matters, in a "good neighbour agreement."

As it turns out however, and to my surprise, there have been no regulations in the downtown area regarding sign illumination. The regulations proposed in the new Sign By-law show areas of the downtown peninsula in a Map 2 where regulations for illuminated signs do not apply. "Map 2 includes the Granville Street Sign District and a portion of the downtown (the central business district, Alberni retail district and the Denman, Davie and Robson Street commercial villages)." The CBD is in this area where signs can be illuminated 24/7. This does not seem right to me. While it could be the case that most residential premises in these areas are non-conforming older developments, there are also hotels, as well as new hotel and residential developments. Perhaps the fair thing to do is to 'grand-father' existing illuminated signs and apply the new regulations to new signs?

During my long and unhappy experience with the proposed signage at Telus Garden I wished and hoped that no other property owner should ever have to go through what I did and I vowed to do what I could to obtain changes in the Board of Variance By-law and procedures, or Sign By-law and permitting procedures, so as to prevent my bad experience from ever happening to anyone else. The new Sign By-law and associated sign permitting procedures proposed by City staff appear to go some distance to address my concerns. I hope that my observations above here will assist in identifying some modifications to the proposed by-law to ensure that no city resident or visitor to the city suffers a poor night's sleep because of an illuminated sign.

Thank you for taking the time to read this letter.

Sincerely,
Fred

Fred O'Hagan

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