

REPORT

DEVELOPMENT SERVICES DEPARTMENT

To: Mayor W. Wright and Members of Council in Committee of the Whole Date: 2009 September 14

From: Lisa Spitale, Director of Development Services File: 2606.20.03

Subject: Update on Gas Works Site

RECOMMENDATIONS

THAT the City of New Westminster request from the Province of British Columbia a two month extension of time to resolve all outstanding issues related to the disposition of this property; and

THAT a tour of the Gas Works building and site be held on September 17.

PURPOSE

The purpose of this report is twofold: one, to provide an update to City Council regarding the progress toward gaining greater understanding of the issues underlying the decision whether or not the City should accept the offer of the Province for a Crown Grant of the land; and two, to seek City Council's consideration of an extension in time to complete the review process and to come to a decision as to whether or not to acquire the property.

SUMMARY

The City needs to answer a number of questions before deciding whether or not to accept the Province's offer of a Free Crown Grant for the Gas Works site. City staff have commissioned three reports on aspects of the property and have arranged consultation sessions with the public. Staff have also considered and provided information on the 9 outstanding issues as raised by the Province. Although the process is well advanced, it may be necessary to ask the Province for a time extension to complete the process.

BACKGROUND

At its meeting on 2009 June 15, City Council directed staff to proceed with the land use planning process for the Gas Works site and authorized \$60,000 for consultant studies.

The Gas Works site is a 45,645.6 square foot site, consisting of 4 lots and currently owned by the Province of British Columbia. The remaining building on this property is the Gas Works building, erected in 1886 which is the oldest remaining industrial building in the City and a structure of heritage interest. Attempts to develop this property over the last 15 years have faced the challenge of how to integrate this building.

In 2008, the Province offered the possibility to the City of the property being transferred as a Free Crown Grant subject to a triple bottom line approach. Under the possible arrangement, the Province would pay for the cost of all needed environmental remediation for the soils and the City would agree to accept responsibility for the heritage building and agree to a transfer of housing density from the Gas Works site to elsewhere in the City.

EXISTING POLICY/PRACTICE

The New Westminster Official Community Plan has included the New Westminster Gas Works property in the Lower Twelfth Street development permit area (Official Community Plan Designation Amendment Bylaw No. 6939, 2004). The City designated this area in order to encourage a compatible mix of land uses.

The objectives of this designation are to:

- create a compact, complete neighbourhood where residents can live, work, shop and play
- encourage the provision of a variety of housing units to provide more housing choices
- consider new residential uses that are compatible with existing uses (e.g. lofts or live/work studios)
- ensure architectural designs complement the neighbourhood context
- encourage the adaptive reuse of the Gas Works building as a community asset and use the structure as the basis for a viewing area and neighbourhood activities
- link the area to the surrounding community with a reduced emphasis on the automobile (greenways, bike routes, transit and like facilities)
- design buildings to maintain or enhance the view corridors of the Fraser River

Development permits in this area shall be in accordance with the following guidelines:

- ensure that development permits provide for a mix of residential and commercial uses that are organized in such a manner to provide for view corridors of the river, public open space, a public pedestrian and vehicular circulation system that relates to the existing patterns of New Westminster

- all streets shall have street trees and landscaping, and shall consider traffic calming measures, sidewalks, pedestrian road crossings, street furniture, public art, pedestrian lighting, and historical theme and materials in street design
- form, orientation and view corridors shall respect surrounding buildings to minimize visual intrusion
- area theme shall be inspired by heritage reference with a contemporary response where appropriate (using architectural elements from the Gas Works building)
- review building design, lighting and signage in relation to Crime Prevention Through Environmental Design standards
- Buildings should be sited to provide “eyes on the street” for crime prevention as well as a buffer (e.g. acoustic, visual) to the traffic corridor, for the surrounding neighbourhood
- Residential and commercial uses along the street shall have a building setback after the first two or three floors. Building tops should be complete with a distinguishing feature or cornice line that screens mechanical structures and other elements from view
- Green roofs such as roof gardens and parkettes are encouraged
- Employ technical approaches to sound insulation in building construction in this area (e.g. near high traffic streets or intersections)

The zoning for this site is Light Industrial Districts (M-1).

Development of the Gas Works site will require amendment of the Zoning Bylaw to a new district to accommodate any proposed uses. The direction of the planning for the site also indicates that an amendment of the Official Community Plan will also be needed.

If the ultimate development proposal consists of all public institutional uses, then a development permit is not required.

ANALYSIS

At the meeting of June 15, staff requested Council direction with respect to the Gas Works property and an allocation of \$60,000 to prepare reports. Following the meeting of June 15, staff have prepared Terms of Reference and engaged consultants to prepare three evaluation studies.

Evaluation Studies:

The City has requested three studies to help in reaching a decision:

1. Building Materials – the first study was to determine if the building components, particularly the brick, were in themselves, so contaminated as to be contaminants. If they were, then there would be little purpose in saving a building that could pose a health hazard. This study has concluded that the bricks do not seem contaminated. Asbestos contamination exists in the building, particularly in the roof.
2. Preservation of the Building – the second study is to look at ways to keep the building out of harms way while the removal of the soil contamination takes place. According to the proposal, the Province would clean up the site, but the City must take responsibility for the heritage building. The consultant for this study is examining the how and the costs of three different approaches to retaining the building during the removal of the contaminated soils under the building. The first approach is to support the building while the excavation takes place. The second approach is to move the building, remove the pollution and then move the building back again. The third approach is to catalogue the building components, disassemble the components, store in a warehouse, remove the pollution and then reassemble the components. This study is ongoing and should report out at or near the end of the month.
3. Land Use Study – the third study is to examine the land use relationships on the site, both with and without the presence of the Gas Works building. The work done by the consultant shows that the fire hall can be accommodated at the south-west corner of the site, leaving the rest of the property for the park. The off-street parking can be placed behind the firehall.

Consultation:

Staff have arranged a number of meetings with committees, Council and the general public in order to gauge better public support for the proposed arrangement with the Province.

Committee Meetings:

The Development Services Department has presented the issues and findings to date to the Environment Committee held on September 9, and will present to the Community Heritage Commission at their September 16 meeting.

Tour of the Building:

Development Services staff have arranged for a tour of the Gas Works building and site for Council and interested Committee members on September 17.

Staff will present Council with a subsequent report at the September 21, 2009 Workshop.

Public Open House:

A public open house with drawings is planned for the City Hall foyer from 4:00 to 7:30 p.m. on September 23. Notices will be placed on the local newspapers.

Specific Issues for Resolution:

The Memorandum of Understanding listed 9 issues requiring resolution as part of the process. The Province will prepare a document(s) to address these issues. A brief explanation of the status of each issue and the possible City interest, as seen by staff, in order to provide information to Council, in advance of the receipt of such a document (s) follows.

Responsibility for management of remediation activities:

The responsibility for management of remediation activities should remain with the Province, which has the expertise to deal with the complexities of the situation. It was, at one time, believed that the City might wish to control some aspects of the management in order to have better coordination and generate potential cost savings with respect to the protection of the heritage building, building any new buildings or installation of works and services. As the construction of new buildings is possibly several years away and the City will not be entering into monitoring, there is little need for the City to assume responsibility for any aspect of the management of remediation activities.

Environmental liability issues:

Some environmental liability would remain with the City if, for example, the site were remediated but contamination were allowed to stay and be monitored periodically. In that case, a change in the scientific basis of information could result in the City having liability for the remaining contamination. For that reason, City staff prefers the Province to remove all the contamination and that there not be any containment and monitoring.

Timeframe for completion of remediation activities:

The preference of staff is for the Province to remove the contamination as soon as feasible. Delaying until the time of the construction of new buildings might create a seven year gap and result in arranging for remediation to be difficult to marshal at that time.

Timeline for completion of any Crown land transfer:

The City staff would also prefer the transfer of the Crown Grant to take place as soon as possible. Staff have recommended a two month extension of the process in order to allow time for study completion, negotiations of details, and the signing and registration of documents if the City and the Province conclude this transaction.

Mechanism for funding and approving remediation expenses:

The Province has offered to give the City a lump sum amount which it can then use to manage and pay for the remediation process. Although this process might have some advantages in other situations, staff are of the opinion that the most direct approach is for the Province to fund and approve the remediation.

Remediation standard and approval process:

Staff also recommend that the Province conduct the remediation process. Because the site would be used for institutional purposes, the standard must be equal or better than that specified in the Provincial regulations.

Possible harmonization with watermain upgrade:

Staff again recommend that the Province proceed with the removal of contamination. The timing of the watermain upgrade is not certain.

Timeframe for completion of landuse planning activities:

The City has commissioned a report on the land use planning for the site. This report is expected to be completed by the end of September and will be used to inform future and more detailed planning for the site.

Addressing outstanding data gaps remaining from environmental investigation:

Staff believe that the data gaps are the responsibility of the Province. These will need to be filled before the remediation of the site can proceed.

Housing Issue:

A further issue for consideration is the Housing Memorandum between the City and the Province regarding the transfer of 20 non-market housing units from the Gas Works site to elsewhere in the City. A draft of such Memorandum of Undertaking (MOU) is attached. The proposed MOU would seek to have the Province respect City bylaws and processes, and allow up to 5 years to incorporate the housing credits to other projects.

Need for Extension of Time:

The Memorandum of Understanding between the City and the Province gave September 30, 2009 as the date for conclusion of the process and the decision as to whether or not the City would acquire the Gas Works site. At this time, it appears that not all the information will be available for this scheduled deadline. The present schedule of Council meetings, for example, does not have any Council meeting between September 21 and October 05.

In view of the progress that is being made in working through the details and the benefits that would flow to both parties from a successful arrangement, it would be in order for the City to request an extension of time. Staff recommend a further two months in order to give the needed length of time to complete the analysis, and to complete, adopt and sign the required legal documents (if the transaction is concluded).

There may be a possibility that the Province, even with the progress being made, will not require a formal extension of the Memorandum but will allow the process to continue without formal approval by means of amendments to the MOU.

SUSTAINABILITY IMPLICATIONS

The cleanup of this site would represent major environmental progress for the City in removing this brownfield site.

The development of this property could increase the assessments significantly. As the uses are public and institutional in nature, there would not be property taxes received. The improvement of the site might have a stimulating effect on the surrounding area and the value of that property. This gain can not be quantified at this time.

The possible creation of park, open space, community use and civic use such as a new fire hall would increase the social and community assets of the City.

LEGAL AGREEMENTS

Crown Grant – to be forthcoming
Housing Agreement – in draft form

OPTIONS

There are four options for Council’s consideration; they are:

1. Receive this report for information.
2. Request the Province of B.C. to agree to an extension of two months to enable completion of the process.
3. View the Gas Works Building on September 17.
4. Provide staff with further direction.

Staff recommend Options 2 and 3.

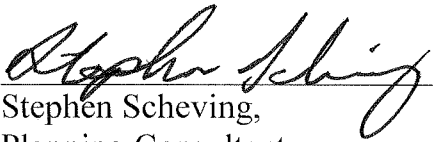
INTERDEPARTMENTAL LIAISON

The Development Services Department has forwarded a copy of this report to the Engineering, Fire and Parks and Recreation Department. These departments also have provided input at a meeting with the Land Use consultant.

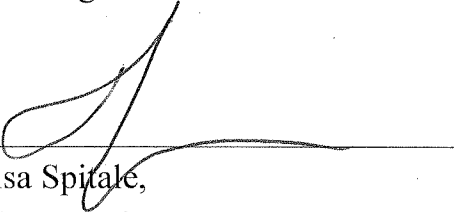
CONCLUSION

Work on this important property continues in order to provide information to Council on whether or not to accept the Province’s offer.

Report Author

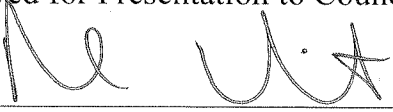


Stephen Scheving,
Planning Consultant



Lisa Spitale,
Director of Development Services

Approved for Presentation to Council



Paul Daminato,
City Administrator

:SS

This Memorandum dated for reference the _____ day of _____ 2009

MEMORANDUM OF UNDERSTANDING
between the
PROVINCE OF BRITISH COLUMBIA
and the
CORPORATION OF THE CITY OF NEW WESTMINSTER

WHEREAS the Province of British Columbia (the "Province") intends to dispose of the former New Westminster Gas Works ("Gas Works Site") legally described as Lots 1,2,3, and 4 of Lot 42 Suburban Block 5 Plan 2620 (municipally known as 231 Twelfth Street, New Westminster, B.C.), being 1.048 acres located on the corner of Twelfth Street and Third Avenue

AND WHEREAS the Corporation of the City of New Westminster (the "City") has agreed to consider the offer of the Province for a Free Crown Grant on the guarantee that the Province will remove the soil contamination resulting from industrial activities on the site

AND WHEREAS both the Province and the City perceive that one of the challenges and opportunities of the site is the provision of affordable housing

AND WHEREAS the provision of affordable housing is a key objective for the Province

AND WHEREAS the site would have the possibility of an affordable housing component in a residential development if zoned and developed in accordance with the Official Community Plan

AND WHEREAS both the Province and the City acknowledge the difficulty of accommodating a housing component if the City redevelops the site

AND WHEREAS the City is in favour of assisting the Province in determining arenas by which it may be able to create an affordable housing outcome in any transaction involving the Gas Works Site

AND WHEREAS both the Province and the City feel that the opportunity to provide non-market housing should not be abandoned or neglected;

NOW THEREFORE, the Province and the City share the following positions:

1. That the Gas Works Site would have the capacity to accommodate 100 housing units;
2. It is realistic to assume that 20 of these units could be non-market housing units and that provision for such units could be highly desirable;

3. That 20 units of non-market housing would serve to meet the City's goals for the Gas Works site to provide non-market housing
4. That the Province or its approved agencies, such as B.C. Housing, could transfer the 20 units of non-market housing from the Gas Works site ('Donor Site') to another site ('Recipient Site') within the limits of the City of New Westminster
5. That the Province and the City agree to consult before identifying or selecting a potential Recipient Site
6. That the Province and the City both see the necessity for any such affordable housing to comply with the bylaws, regulations and policies of the City with respect to the Recipient Site including the obtaining from the City bylaw amendments, permits, licences and permissions required by City bylaws needed and including the entering into of agreements and covenants that both parties of it agree to
7. That the Province and the City feel that it is desirable that the Province and the City locate a site to accommodate the 20 units of affordable housing acceptable to both within 5 years of the entering into of this MOU and should the search for a site exceed 5 years seek a renewal of this agreement
8. The Province may abandon any intention or desire to provide the 20 units of non-market housing at any time at its own volition
9. Nothing in this Memorandum of Understanding shall be construed as creating any obligation or duty beyond the cooperative non-binding undertaking herein.

In witness to this agreement, the Province and the City hereby commit themselves to the terms of this Memorandum of Understanding.

On behalf of the Province of
British Columbia

On behalf of the City of
New Westminster