

NPNA CALUC Meeting

15 May, 2019, 7:32

NORTH PARK NEIGHBOURHOOD ASSOCIATION**COMMUNITY ASSOCIATION LAND USE COMMITTEE (CALUC) MEETING**

Re: 1008 Pandora Ave. — re-zoning proposal

MINUTES

[N.B. Following the CALUC meeting, NPNA contacted the developer's representative to request clarification on several responses to questions asked by attendees. This additional information is in an addendum following the minutes.]

RECORDER: Penny Bond, NPNA

PROPOSER: Blue Sky Properties (Bosa Family Company)

ATTENDANCE:

40 people signed the attendance register. Attendees were primarily North Park residents and business owners. Also present were Victoria Councillors Alto and Dubow, and Michael Hill, North Park's City Hall staff liaison.

1. OPENING REMARKS:

North Park Neighbourhood Association (NPNA) — Jenny Farkas, President

- Jenny introduced Phillippe Lew, representative of Blue Sky Properties.
- This CALUC meeting is about a re-zoning proposal for this property to allow Air Space Parcel Subdivision (ASP). Blue Sky has indicated ASP is a tool used to subdivide a piece of land (another way to do this is to strata title). More information can be found at http://www.bclaws.ca/civix/document/id/complete/statreg/96250_09.

2. PRESENTATION:

- Project Overview — The building is constructed to LEED Silver equivalent. It contains 207 rental units; 11 non-market. There are six commercial rental units (CRU), comprising 45,000 sq. ft. on ground level. On level 3, there is a 16,500 sq. ft. outdoor courtyard.
- The building has several components —
 - Residential Building A, facing Mason St.
 - Residential Building B, facing Pandora Ave.
 - CRU 1 - 5 — small commercial tenants, facing Vancouver St.
 - CRU 6 — large anchor tenant (Save-On-Foods)
- Occupancy dates —
 - Residential Building A, June 1; move in July 1
 - Residential Building B, mid-July; move in August 1
 - CRU 6, June 15; move in mid-August
 - CRU 1 – 5, mid-July; move in August 1. There are no tenants yet for CRU 1 - 5

More information available at <https://blueskyproperties.ca/en/homes/pandora/>.

3. PROPOSAL:

The proposal is re-zoning to allow Air Space Parcel (ASP) subdivision. ASP means that the proponent owns the surface of the site, plus the space above and below, as much as can effectively be used. According to the BC Title Act, air space can be subdivided like land.

- Blue Sky Properties is proposing that ASP be subdivided to separate ownership of residential and commercial components. The six CRUs would become six ASPs. The remainder (residential) would become a separate ASP.
- Rationale: Subdividing ASP gives flexibility. With separate residential and commercial ASPs, ownership can be separated. ASPs can be transferred, leased, mortgaged, and charged separately.
 - ASP subdivision facilitates cost sharing for things like maintenance, repair, inspections, servicing for shared property, and assets.
- Impact on neighbourhood: There would be no impact on the neighbourhood. ASP subdivision, and related legal agreements, defines the relationship between residential and commercial tenants.
- The ability to do ASP subdivision should have been written into the property's zoning regulation bylaw during initial re-zoning, but this is not the current practice of the City of Victoria. Therefore, this re-zoning has to be done now, as a minor technical matter.

4. DISCUSSION on ASP Re-zoning — Questions from meeting attendees; answers from Philippe Lew.

Q: Who owns the building's parking space? Who should neighbours approach if there is a parking problem?

A: Parking on basement level one (P1) is all commercial (i.e. all CRUs have equal access). Parking on basement level 2 (P2) is all residential units. Blue Sky Properties is the contact.

Q: Why wasn't ASP re-zoning done at the beginning of the development process?

A: The developer assumed that the process was in place in Victoria, as in other jurisdictions.

Q: Why is this re-zoning process happening now?

A: It wasn't identified in the initial planning. Response from the City was delayed.

Q: There has been a rumour that CRUs were being sold and stratas created.

A: Blue Sky is not interested in selling. This ASP land title agreement should have been in place at the beginning.

Comment: Neighbours have no confidence in this project.

A: The developer has a responsibility to be a good neighbour.

Q: Does this re-zoning provide any benefit the neighbourhood?

A: None; it is about the developer's relationship with the tenants.

Q: Are the residential units possibly to be sold in the future?

A: There is a covenant with the City for the units to be rental for 10 years. The developer is interested in keeping the property as rental.

Q: Can the height of the building be increased in the future once you have the ASP in place?

A: No.

Q: After 10 years, if the whole building is sold, can one ASP group overrule the others?

A: BlueSky wants to not be ruthless. *

5. ADDITIONAL DISCUSSION related to the project in general:

Q: The mid-block walkway from Pandora Ave. to Mason St. looks like it will allow only one-way passage (e.g. it is too narrow to accommodate both a wheelchair and another person passing).

A: One wheelchair can go through. Current width is 36 inches; the developer has committed to increasing the width to 42 inches after Jenny raised this issue last week.

Q: What is in process to get tenants for CRU 1 - 5?

A: Blue Sky is reaching out to smaller local businesses, and is looking at rent incentives to attract local commercial tenants.

Q: The residential outside lights are too bright on the Mason St. side. Can they be capped? Another person noted a similar concern about wide brightly lighted area at the vehicle entry.

A: This concern was noted for follow-up. **

Q: Will there be child care in the building?

A: There is no plan for this.

Q: Is there still a plan for a community room?

A: Yes, it is on the Mason St. side of the building.

Q: Who will be able to use the community room? Will neighbours be allowed to use the courtyard?

A: Once occupancy is gained, BlueSky will have a better idea how space can be used. ***

Comment: NPNA might want to look at the covenant between Blue Sky and the City. †

Q: What is the benefit for the community of CRUs?

A: Blue Sky wants to not be ruthless. ††

Q: How is Blue Sky doing with gaining residential tenants?

A: No leases have been signed yet. BlueSky is waiting for certainty in timing. A waiting list is being taken. Bosa buildings have a rent-to-own option (25% towards purchase). †††

Comment: In its initial representation, Bosa Properties said it is better if one developer does the whole property, rather than having a mishmash. It is not plausible that Bosa missed the ASP initially. There was lots of time to have the ducks in a row. Now three years later there is a request for a zoning change. This is not what NPNA agreed on at the beginning. ASP re-zoning should be declined. This gives Blue Sky the option to sell off the Commercial Units, something the neighbourhood didn't agree to.

A: Blue Sky understands the concern about this matter. The developer is interested in being responsible and a good neighbour. Blue Sky's intentions are good. ‡

Q: Is there a renewable option on the 10-year covenant?

A: The Blue Sky representative does not think so. ‡‡

6. ADJOURNMENT

The meeting adjourned at 9:00 p.m.

ADDENDUM

* In theory, the ASP agreement could be modified by a future owner. In practice, this is difficult to undertake and therefore very unlikely. The reason for this is that any contemplated revisions to the ASP agreement typically favour one party over another. Any revisions require consent from all parties, including the City, and so it would be unlikely to receive unanimous support. In turn, revisions to air space parcel agreements are rarely pursued as an option.

** Subsequent to the meeting, Philippe Lew visited the building along Franklin Green Park where one of the meeting attendees noted that the lights were too bright. While Blue Sky understands their concern, we feel that the lighting levels are acceptable, particularly given the uses of the park after dark. For the security of the building inhabitants as well as those making use of the path to traverse from Mason St. to Pandora Avenue during the evening, a generous level of illumination is desirable.

Likewise, with the parkade and loading entry at Pandora Avenue, the level of illumination is, in our view, not excessive given the needs of vehicular access and site safety.

*** Neighbours will be able to make use of the community room. Blue Sky Properties is currently looking at how to implement access to the room. The building courtyard is only accessible to building residents.

† There is no covenant that governs the use of the Community Room. There is, however, an agreement for the provision of the Community Room with the North Park Neighbourhood Association. The details are as follows:

1. Blue Sky Properties will provide a Community Meeting Room for the NPNA for at least 12 hours per month.
2. Blue Sky Properties will book the Community Meeting Room on behalf of the NPNA.
3. Blue Sky Properties will provide the use of the Community Room without charge and will work cooperatively and reasonably with the NPNA to ensure that all parties are content with the schedule and terms of use.
4. The schedule for NPNA use of the Community Room is as shown:

Day of Week: Wednesdays

Monthly Use: 1st, 2nd, 3rd week of the month

Meeting Time: 6:30pm – 9:30pm

Hours Per Session: 3

Total Hours: 12

†† To provide context for the quote in the minutes, there was also some questioning over Blue Sky Properties' motives for applying for an air space parcel subdivision so close to project completion. We heard from you the community that there was concern over the ownership of the CRUs should we decide to sell. We would like to underscore that we have a long-term interest in owning the CRUs and have no plans to sell. We take a long-term view of our business and maintaining good standing with our neighbours is therefore of paramount importance. Our building represents a substantial investment into the North Park neighbourhood and our hope is that it can act as a catalyst for the revitalization of the area.

We do acknowledge that the air space parcel subdivision permits us to sell the units but our primary motivation for subdivision is practical: it allows us to equitably share costs amongst the commercial tenants and remainder, and gives them certainty over how the costs are distributed. Moreover, in the unlikely event that we do sell a CRU, it could potentially be a net positive for a local business; one can envision a scenario where a small business owner wants to take ownership of their leased premises to provide long-term certainty in their premises of operation.

††† All Blue Sky and Bosa Properties rental buildings participate in our Bosa Equity, rent-to-own program where up to 25% of your monthly rent goes towards an account balance which

can then be applied for up to 5% of the purchase price of a new Bosa Properties or Blue Sky Properties home. The credit would remain secure for up to 24 months after end of tenancy. More details can be found at the following link: <https://bosa4rent.com/en/landlord/>.

‡ We would also add that, as an alternative to air space parcel subdivision, we have the option to strata subdivide the CRUs. This would also allow us to sell the units on an individual basis. But this would also entail challenges for the tenant of any CRU in that they would need to participate as part of the building strata, and necessarily need to abide by strata bylaws, attend strata meetings, etc. The reason we are instead pursuing an air space parcel subdivision is that it gives tenants certainty about their operational independence from the air space parcels and remainder. And as mentioned above, it provides CRU tenants assurance about the shared costs for building maintenance.

‡‡ No, there is no option to renew. At this time, Blue Sky Properties has no plans to renew the 10-year covenant at expiry.