

COUNCIL MINUTES – NOVEMBER 23, 2006 – Public Hearing (Note bylaw not adopted until December 14, 2006)

1. Rezoning Application No. 00049 and Development Permit Application No. 000048 for property known as 1321 Yates Street

1. Zoning Regulation Bylaw, Amendment Bylaw (No. 788) – No. 06-67:

To amend the Zoning Regulation Bylaw.

- (a) to create a C-SY Zone, Yates Special Service Station District, which will permit the uses in the C-SS Zone, Special Service Station District and retail use accessory to a service station, and will apply the C-SS Zone's regulations except to limit the total floor area for retail use accessory to a service station;
- (b) to rezone land known as 1321 Yates Street to a new C-SY Zone, Yates Special Service Station District, to permit the land to be used for a retail gas station, car wash and convenience store.

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| New Zone: | C-SY Zone, Yates Special Service Station District |
| Legal Description: | Lot A, Section 74, Victoria District, Plan 21955 |
| Existing Zone: | C-SS Zone, Special Service Station District |

2. Development Permit Application

The City of Victoria will also be considering the issuance of a development permit for the land known as 1321 Yates Street, Development Permit Area 11, for the purpose of developing a retail gas station, car wash and convenience store and varying the parking requirements and the minimum required distance between a building and a boundary of its lot.

Mayor Lowe opened the public hearing at 7:35 p.m.

Greg Soucie Grass Ridge Consulting: Shell has owned the station since 1934 in various forms. The last major remodelling was in 1968 and it is now in need of redevelopment. This process began in March 2005 with consultations with the neighbours and neighbourhood association. The Advisory Design Panel (ADP) did not think the first design was appropriate with how the City would like to see the site developed. The redesign came back to ADP which was more expressive of the current structure shape and building materials and it received unanimous approval from the ADP. As part of the rezoning the applicant has committed to the Engineering Department they will construct off-site works and they will enter into an easement agreement with the City to permit a new sidewalk on Fernwood Road on Shell property. The retail store on the property will be convenience store in conjunction with retail gas sales. The retail portion will be limited to 1,180 sq. ft.

John Blair (1340 Harrison Street): He understands that the proposed use of the site will have a convenience store selling confectionary goods; this is beside a middle school. No ones health is served by that and it will create litter in the neighbourhood. There are already stores in the neighbourhood that sell similar items. Shell has been exemplary neighbours and have kept the property in order. He would prefer that there is no change to the site at the moment

Councillor Fortin asked if there is a bylaw preventing how close convenience can be located to a school?

Alison Meyer: No, there isn't.

Kathy Summer (1050 Joan Crescent Craigdarroch Castle): She agrees with the gentlemen regarding keeping the neighbourhood clean and safe. Convenience store would be open to 11 pm and there are security concerns in Rockland neighbourhood now. She is also concerned that the store would be next door to the middle school. The Castle also hopes to develop the area over the coming years and she is concerned about the heritage aspect being protected and a big glossy gas station does not fit; however, she does like the changes and design. It is nice to have a place close to have work done on your car.

Councillor Fortin said that evening operations would likely add to the safety of the neighbourhood with more traffic and lighting.

Kathy Summer: Asked if the car wash would be open late?

Doreen Mueller Rockland Neighbourhood Association: She supports Craigdarroch project. A visioning exercise for Rockland was done to determine how far downtown should go to and it was agreed that restoration along Rockland and entry points to Rockland and Craigdarroch and entry gates should be maintained. Concerns about modern gas station going into neighbourhood; the current building has historical value. It is nice to have somewhere that will repair your car that is close by. Convenience store is a concern and she would like commercial further away. The last design was approved as it was a reasonable friendly design. She asked that when implementation happens to ensure that Shell will stay within what was approved.

Mayor Lowe said that it is controlled by the Development Permit.

Kim (1091 Joan Crescent): She lives in area and Fort Street is a pipeline at night for inebriated people that are coming to get cigarettes and mixers at the 24 hour place at Oak Bay junction. She is concerned about the security being increased; she was at Freddie's when they were robbed and that is something they take on as part of making money in that area. The gas station where it is, is well lit and there is no where to hide or sleep off or shoot up; and that happens at night. She understands that the station needs to be updated. Small businesses need to be supported; it is an impressive landmark. There is not more security with self serve. There is a phone that can be used 24 hours and it is well lit. Will the phone be maintained when the station is remodelled? Don't know if it is such a good idea to have a retail store as that is not the service we are use to.

Councillor Thornton-Joe knows there is love for the Dunsmuir station as it is today. If the application is not approved will it continue as it is, or will there still be changes. Telus has contacted her about removing the phone as it is not well-used.

Mike Hannah (1049 Craigdarroch): He has a visual to the site from his house. It is not a good idea to put a convenience store next to the middle school. They are taking junk food out of schools and obesity is increasing; why put a convenience next to a school with impressionable youth next door. It would be a crime magnet which would continue into the Rockland neighbourhood. He asked if the lighting would be recessed in the gas bar ceiling so that it doesn't shine into the neighbourhood. Convenience store is not appropriate for this area.

Ian Atherton 1006 Chamberlain Street: He is a regular customer and opposes this application. He trusts Council for the public betterment and this is not given the typical product line of a convenience store. He opposes the exclusion of auto service bays; the service is needed. If you ignore the Shell at Fairfield and Cook, as they are also close to rezoning, the next closest is northwest of City Hall; that is a lot of distance for the general public to get their car repaired. If this application goes through this service is gone, the new station will have a convenience store, gas bar, auto car wash; there will be no service bays. Auto service bays are loosing out to slurpy drink dispensers. Put aside this application until a viable strata unit is permitted to be sold to the service bay operator.

Tom McVeigh (946 Fort Street): School is located at Yates and Fort and it is busiest. He use to get candy and cross those streets, but it is safer than going two blocks away; kids will be kids. Let's make it easier and they want to make money and they need to update. He wouldn't go to the gas station if there was no convenience store attached. That is the reality of modern living.

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Lucy Waddell (1340 Harrison Street): Must think of the safety of students. The students are not allowed offer school property during the day, but with the convenience store so close, how many will receive suspensions for leaving and going to get candy.

Paul Huxtable (1401): Concerned about the junk food, night life, traffic, loss of jobs; people hired to pump gas and fix vehicles; now there will be one person inside. Currently there are seven people around. It is good for the young people to see people working not sitting and selling candy; show them a trade that is useful to the community. What about the construction noise; he works on weekends and not so much in the week; it would wake him up.

Marilyn McManus (4037 Glanford) 16 years ago a magazine listed Dunsmuir Shell as the best place to get your car fixed in town. She is very happy going there and they take good care of her.

Mayor Lowe asked Mr. Soucie what would happen if the rezoning did not happen.

Greg Soucie: Shell has not indicated what would happen if the application does not proceed; they may continue. One reason to redevelop is that the service bays are not economical to company anymore and it is more convenient for the public to go to Wal-Mart or Canadian Tire to shop while their vehicle is being worked on. Shell will maintain the gas sales and there is currently a small convenience store at this location. If the application is approved the convenience store would not just sell candy, but it could sell diapers, newspapers or other convenience items such as a coffee bar. The middle school is a closed campus, so students are not permitted off campus to shop for candy. Fernwood Community group did contact school officials and no concerns were expressed in writing or passed on to him. It will not be a 24 hour service; the demand will dictate the hours, but he did not think it would be open past 11 pm in the week and midnight at the weekends. Evening operations would add eyes in the night watching what is going on. The design was appropriate to the point where it was approved by the ADP; the hours of the car wash will run with the convenience store; when it is closed the bay doors will be locked.

Councillor Thornton-Joe asked if the City had control over the hours of opening.

The Corporate Administrator responded that business hours are not regulated by bylaw, but a covenant could be registered with the owner on the land to limit the hours of operation.

Alison Meyer (Planner): This has not been discussed with the applicant.

The Corporate Administrator said that Council could include it as a condition of their approval of the application.

Councillor Coleman asked if the lighting could be recessed rather than flush mounted.

Greg Soucie: There is decorative lighting on the building and there are probably lights at the pumps, which would be looked at to determine if they are recessed or flush.

Jill Picard (1286 Pembroke Street): Has been going to the station since 1969 when it was on Blanshard; she has been following them around and has always been satisfied with the service she has received. She would not go to Canadian Tire or Wal-Mart and it is convenient to leave her car there and walk home and walk back when it is ready.

Martin Bruce (1326 Yates): Best service and they always run to the car and fill tank and they have the best service bay around. They guys will push the car into the station; he doesn't need a tow truck. Night light around there would concern him; current they close at 6 p.m. or 7 p.m. which is nice; we don't need anything more. New gas stations are really bright in the dark, it is peaceful and don't want anything like Las Vegas.

Councillor Thornton-Joe asked if the gas station could change to self serve, keep the car wash and get rid of the service bays.

Alison Meyer: The only change is introducing a convenient store to the site.

Councillor Holland thought she understood that the Shell does not intend to keep the repair part of the station open. If this is not approved, what would Shell do next?

Greg Soucie: It is not economically viable to keep the bays open and the car wash needs a major renovation to meet CRD standards. If the application is turned down he would expect that Shell will close the service bays and car wash and maintain the gas bar and existing convenience store that is there.

Mayor Lowe closed the public hearing at 8:12 p.m.

3. Bylaw Motion – Consideration of Third Reading

It was moved by Councillor Holland, seconded by Councillor Hughes, that the following Bylaw **be given third reading**:
Zoning Regulation Bylaw, Amendment Bylaw, (No. 788) 06-067

Councillor Holland noted how exemplary the operators have been but Council can't tell owners to continue their operation as is. We have heard that if this application fails, the service bays will not remain in the future. If there is a security issue for Fort and Rockland area, she would like to hear about it.

Councillor Young said that Council is limited on what we can do, we have no power to require service station to remain open and provide service for brakes and oil changes; nor does Council have the power to stop kids from buying candy. Council has a say in what the gas station would look like and the amount of retail space provided. He also concluded that he was prepared to accept staff's advice that the site is better suited to uses other than a gas station.

Councillor Hughes noted that if the Fernwood Community Association Land Use Committee is comfortable with the design and wants to see it go forward then she will support the motion.

Councillor Madoff said that this is a prominent location and the gateway to the City, the east end, Oak Bay and access points into Rockland. The existing building is better than the proposed one; the detail is not there; the building should be a better neighbour.

Councillor Coleman said that this is a passing of an era. People may not take to their cars to Wal-mart; they are more likely to take them to where they purchased their cars. That is probably one of the reasons service bays going. The application won't make everyone happy, but it is what works in long run.

Councillor Thornton-Joe said the gas station will change whether this application is approved or not. She would not be able to approve this application if it was just for a convenience store, but as it has the gas bar she can support it. She would like to see a covenant on it to control the hours.

The Corporate Administrator advised that Council can withhold adoption of the bylaw and Development Permit pending the registration of a restrictive covenant on the title limiting its business hours.

Mayor Lowe said that the current car wash is not up to standards and the same is true with the tanks buried in the ground. The convenience store aspects are already there but are increasing by three-fold.

Carried

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Councillors Chandler, Fortin, Madoff and Young voted against this motion

Motion:

It was moved by Councillor Holland, seconded by Councillor Fortin, that Council instruct staff to work with the applicant and the police to prepare a Restrictive Covenant on title with respect to the hours of operation and that a report be forwarded to the December 07, 2006 Committee of the Whole or the Council meeting of December 14, 2006.

Carried

Council meeting
November 23, 2006