PLANNING AND DEVELOPMENT COMMITTEE

NOTICE OF OPEN MEETING

DATE: **TUESDAY, 2015 MAY 26**

TIME: **6:00 PM**

PLACE: **Council Committee Room, Burnaby City Hall**

A G E N D A

1. CALL TO ORDER **PAGE**

2. MINUTES

A) Minutes of the Planning and Development Committee Open Meeting held on 2015 April 28 — 1

3. DELEGATIONS

A) Monica McGovern, Steven McMurtie and Rick Erb, ACORN Canada, Burnaby Chapter
Re: Payday Lenders — 5

4. REPORTS

A) Report from Director Planning and Building
Re: Payday Loan and Similar Services — 6

B) Report from Director Planning and Building
Re: 6738 Marlborough Avenue
Strata Title Conversion Application
Rezoning Reference #06-59 — 20

5. NEW BUSINESS

6. INQUIRIES

7. ADJOURNMENT

PLANNING AND DEVELOPMENT COMMITTEE

MINUTES

An 'Open' meeting of the Planning and Development Committee was held in the Council Committee Room, Burnaby City Hall, 4949 Canada Way, Burnaby, B.C. on Tuesday, 2015 April 28 at 6:00 PM.

1. CALL TO ORDER

PRESENT: Councillor C. Jordan, Chair
Councillor D. Johnston, Vice Chair
Councillor S. Dhaliwal, Member

STAFF: Mr. L. Pelletier, Director Planning and Building
Mr. E. Kozak, Assistant Director, Current Planning
Ms. L. Garnet, Assistant Director, Long Range Planning
Ms. P. Eng, Property Negotiator
Ms. L. Axford, Administrative Officer

The Chair called the Open meeting to order at 6:05 p.m.

2. MINUTES

A) Minutes of the Planning and Development Committee Open Meeting held on 2015 March 31

MOVED BY COUNCILLOR JOHNSTON:
SECONDED BY COUNCILLOR DHALIWAL:

THAT the minutes of the 'Open' Planning and Development Committee meeting held on 2015 March 31 be now adopted.

CARRIED UNANIMOUSLY

3. CORRESPONDENCE

MOVED BY COUNCILLOR DHALIWAL:
SECONDED BY COUNCILLOR JOHNSTON:

THAT the correspondence be received.

CARRIED UNANIMOUSLY

A) Correspondence from Daphne Sanderson
Re: Multi-Unit Development in Burnaby

Correspondence was received from Daphne Sanderson expressing concern for high rise development in Burnaby.

Arising from discussion, the Committee introduced the following motion:

MOVED BY COUNCILLOR DHALIWAL:
SECONDED BY COUNCILLOR JOHNSTON:

THAT staff forward a letter to Ms. Sanderson in response to this matter.

CARRIED UNANIMOUSLY

4. REPORTS

MOVED BY COUNCILLOR DHALIWAL:
SECONDED BY COUNCILLOR JOHNSTON:

THAT the reports be heard.

CARRIED UNANIMOUSLY

A) Report from Director Planning and Building
Re: Tenant Assistance Policy

A report was received from the Director Planning and Building outlining a recommended Tenant Assistance Policy for implementation as part of the City's rezoning development approval process.

The Director Planning and Building recommended:

1. THAT the Committee recommend to Council that a Tenant Assistance Policy be adopted, as outlined in Section 5.0 of this report.

MOVED BY COUNCILLOR DHALIWAL:
SECONDED BY COUNCILLOR JOHNSTON:

THAT the recommendation of the Director Planning and Development be adopted.

CARRIED UNANIMOUSLY

DRAFT

B) Report from Director Planning and Building
Re: BC Housing Non-Profit Asset Transfer Program

A report was received from the Director Planning and Building providing a preliminary review of the BC Housing Non-Profit Asset Transfer Program.

The Director Planning and Building recommended:

1. THAT Council write to the Premier and the Deputy Premier and Minister Responsible for Housing, the Honourable Rich Coleman to express concern with the disposal of public land and building assets under the Non-Profit Asset Transfer Program, as outlined in this report.

2. THAT Council request the Premier and Minister to provide for a long term plan to maintain public ownership of lands and buildings for non-market housing purposes to meet current and future community needs in the Province.

3. THAT a copy of this report be sent to Burnaby MLAs, the Metro Vancouver Board, and the City's Social Planning Committee.

4. THAT a copy of this report be sent to UBCM member municipalities for information.

MOVED BY COUNCILLOR JOHNSTON:
SECONDED BY COUNCILLOR DHALIWAL:

THAT the recommendations of the Planning and Development Committee be adopted.

CARRIED UNANIMOUSLY

5. NEW BUSINESS

No items of New Business were brought before the Committee at this time.

6. INQUIRIES

No inquiries were brought before the Committee at this time.

DRAFT

7. ADJOURNMENT

MOVED BY COUNCILLOR JOHNSTON:
SECONDED BY COUNCILLOR DHALIWAL:

THAT this meeting do now adjourn.

CARRIED UNANIMOUSLY

The meeting adjourned at 6:40 p.m.

_____ _____

Lynne Axford
ADMINISTRATIVE OFFICER

Councillor Colleen Jordan
CHAIR

DRAFT

Delegation request
2015 May 26, Planning and Development Committee Meeting

Dear Burnaby Planning and Development Committee,

The Burnaby Chapter of ACORN Canada is requesting to send a delegation (Monica McGovern, Steven McMurtrie, Rick Erb) to the May 26 committee meeting in order to comment on Burnaby city staff's payday lender report being presented at said meeting.

Kind regards,

Marcos Gomez
ACORN Canada Staff
(604) 441-4926
bcacorn1@acorncanada.org

City of Burnaby

Meeting 2015 May 26

COMMITTEE REPORT

TO: CHAIR AND MEMBERS
PLANNING AND DEVELOPMENT COMMITTEE

DATE: 2015 May 21

FROM: DIRECTOR PLANNING AND BUILDING

FILE: 42000 20
Reference: *Payday Loan Services*

SUBJECT: PAYDAY LOAN AND SIMILAR SERVICES

PURPOSE: To provide an overview of payday loan and similar services in Burnaby, and to propose text amendments to the Burnaby Zoning Bylaw to regulate the location of such services.

RECOMMENDATIONS:

1. **THAT** the Committee request that Council authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw, as outlined in Section 4.1 of this report, for advancement to a Public Hearing at a future date.

2. **THAT** the Committee request that Council authorize staff to prepare a resolution to the 2015 Union of British Columbia Municipalities (UBCM) Convention and the 2016 Federation of Canadian Municipalities (FCM) Annual Conference advocating increased regulation of payday loan and similar services, as outlined in Section 4.2 of this report.

3. **THAT** the Committee request that Council, through the Office of the Mayor, write to the Provincial Minister of Justice advocating for increased regulation of payday loan and similar services, as outlined in Section 4.2 of this report.

4. **THAT** the Committee request that Council approve staff's involvement in financial literacy education in conjunction with local community groups, as outlined in Section 4.3 of this report.

5. **THAT** a copy of this report be forwarded to BC ACORN, #2 - 630B Carnarvon St., New Westminster BC V3M 1E5 for information.

6. **THAT** a copy of this report be forwarded to the Honourable Stan Keyes, P.C., President, Canadian Payday Loan Association, 25 Main Street West, Suite 1600, Hamilton, ON L8P 1H1.

7. **THAT** a copy of this report be forwarded to the following providers of payday loan and similar services in Burnaby:

a. Cash Money Cheque Cashing, Inc., 400 Carlingview Drive, Toronto, ON M9W 5X9

b. National Money Mart Company, 401 Garbally Road, Victoria, BC V8T 5M3

c. Money Tree, Inc., 6720 Fort Dent Way, Suite #230, Seattle, WA 98188 USA

d. Easy Financial, 3-4461 Lougheed Highway, Burnaby BC V5C 3Z2

e. Easy Financial, 4-4429 Kingsway, Burnaby BC V5H 2A1

8. **THAT** a copy of this report be forwarded to the Social Planning Committee for information.

REPORT

1.0 INTRODUCTION

At its meeting of 2014 February 24, Council received a delegation from the Association of Community Organizations for Reform Now (ACORN) expressing concerns regarding payday lenders and their impacts on low income individuals. The delegation requested that Council introduce zoning restrictions on the number and location of payday lenders and a moratorium on new licences for payday lending businesses. Council requested that staff prepare a report for the Planning and Development Committee on the issues raised by the delegation. The following report is a response to that request.

2.0 BACKGROUND

This report considers payday loan and similar businesses that offer alternative financial services in a quick service, retail storefront format. These businesses operate outside of the business and regulatory framework of traditional financial institutions, such as banks, credit unions, and trust and loan companies. Studies have shown that individuals with the lowest incomes are most likely to use these services, and concerns have been raised that they contribute to a cycle of indebtedness among the financially vulnerable. The financial services include payday loans, cheque cashing, and installment loans, as outlined below.

2.1 Payday Lenders

Payday lenders are businesses that provide short-term personal loans (known as "payday loans" or "cash advances") in amounts less than $1,500. In BC, a lending fee of 23% is charged, and loan terms range from 7 to 42 days, often coinciding with a borrower's payday. Payday lenders may also offer cheque cashing, money transfer and other financial services on a walk-in basis.

2.2 Cheque Cashing

Cheque cashing services provide instant cash for payroll, personal, government and other cheques, money orders, and bank drafts for a nominal flat fee (e.g., $2.99) plus percentage, ranging generally from 1.99% to 6.99% depending on the type of cheque and whether it is postdated. All cheque cashing services in Burnaby are provided by payday loan businesses.

2.3 Installment Loans

Installment loans are marketed as a lower cost, longer term alternative to payday loans. For instance, Easy Financial, which recently opened two storefronts in Burnaby, offers personal loans from $500 to $10,000 with repayment terms from 9 months to 48 months in either weekly, bi-weekly, or monthly installments, with an annual percentage rate of 46.96%. Loan insurance is offered at additional cost, as are loan extensions. Although installment loan services are distinct from payday lenders, given the higher loan amounts, interest rates, and optional fees, their potential impacts raise similar concerns.

Payday loan, cheque cashing, and installment loan services operating in Burnaby are listed in ***Table 1*** below, and a map with their locations is provided in ***Appendix A***.

Table 1. Payday loan and similar services in Burnaby

Business name	Address	Zone	Services	CPLA Member
Cash Money	6912 Kingsway	CD(C3)	Payday loans Cheque cashing	Yes
Money Mart	4206 Hastings Street	C8	Payday loans Cheque cashing	Yes
Money Mart	4607 Kingsway	C3	Payday loans Cheque cashing	Yes
Money Mart	7088 Kingsway	CD(RM5, C3, P2)	Payday loans Cheque cashing	Yes
Money Mart/ The Cash Store	5105 Kingsway	C4	Payday loans Cheque cashing	Yes
Money Tree	5057 Kingsway	C4	Payday loans Cheque cashing	No
Easy Financial	3-4461 Lougheed Highway	C3	Installment loans	No
Easy Financial	4-4429 Kingsway	C3	Installment loans	No

2.4 Payday Loan Industry

The payday loan industry has operated in Canada for approximately 20 years, having begun its expansion into Canada in the mid 1990's. The Canadian Payday Loan Association (CPLA) represents nearly half of payday loan lenders in Canada, including 815 of 1,771 licensed outlets and online platforms. Five out of six payday lenders in Burnaby belong to the CPLA. As a condition of membership, CPLA members are to abide to a Code of Best Business Practices set by the industry, which is included as ***Appendix B***.

2.5 Provincial and Federal Regulations

Payday loans are regulated in BC under the *Payday Loans Regulation* of the *Business Practices and Consumer Protection Act*, which is administered by Consumer Protection BC. This regulation prohibits the following:

- a total charge for loans (including all interest and fees) that exceeds 23% of the principal (for a two-week loan period this equals an approximately 598% annual percentage rate);
- a loan term greater than 62 days;
- loans totaling more than 50% of a borrower's take-home pay;
- loans requiring repayment before the borrower's next payday; and
- issuance of more than one loan to a borrower at the same time.

The regulation also restricts lender access to the borrower's bank and employment records, and requires mandatory registration of all lenders with Consumer Protection BC.

Provincial authority to regulate payday lenders derives from a 2007 May amendment to the federal *Criminal Code*. This amendment also exempts payday loans from Section 347 of the *Criminal Code*, which prohibits interest rates greater than 60% per annum. A payday loan is defined as an unsecured "advancement of money in exchange for a post-dated cheque, a pre-authorized debit or a future payment" that is not offered by a federally regulated financial institution as defined by the *Bank Act*. Under Section 347(2)(a), the loan must be for no more than $1500 and have a term of 62 days or less.

Consumer Protection BC was consulted and it advised that the payday lending industry in BC is a mature sector that exhibits a high level of understanding and compliance with provincial regulations. Consumer Protection BC focuses on education and increasing awareness of both licensees and consumers. Enforcement is complaint driven and voluntary compliance is sought through the investigation process. If this is not achieved, Consumer Protection BC has the authority to escalate enforcement.

Installment loan services are not regulated by the *Payday Loans Regulation*, although under the BC *Business Practices and Consumer Protection Act*, interest rates must be disclosed. Federally, installment loan services are not regulated under the *Bank Act* or the *Trust and Loan Companies Act*; however, because their services do not meet the definition of payday loans, they are subject to the *Criminal Code* provisions that limit interest rates to 60% per annum.

2.6 Zoning and Licensing Regulations

Payday loan and similar services are considered a "bank" use under the Burnaby Zoning Bylaw, which is a permitted use in the following zone districts:

- C1, C2, C3, C4, C8, C9 Commercial Districts
- P11 SFU Neighbourhood District

Acceptance of personal property in exchange for loans is considered a "pawn shop" use, and cash for gold services are considered a "second-hand store" use. These services are permitted only in the C3g and the C4g zone districts. None of the payday lenders in Burnaby provide pawn services; however, three Money Mart locations (4607 Hastings Street, 4607 Kingsway, and 7088 Kingsway) advertise cash for gold services. As the subject locations do not have the required C3g or C4g zoning, these activities are not permitted. Staff will further investigate whether cash for gold transactions are being conducted at these locations and, if so, pursue bylaw compliance.

Payday lenders are licensed under the "Financial Services – General" category, which is subject to the standard annual licence fee for businesses occupying 10 ft^2 or more ($426 for new licences and $125 for renewals).

2.7 Zoning and Licensing Regulations in Other Municipalities

A number of other local governments in the Lower Mainland have sought to restrict or prohibit payday lenders. As outlined in ***Table 2*** below, the City of White Rock prohibits payday loan uses and the City of Maple Ridge recently adopted a similar prohibition. The Corporation of Delta and the Township of Langley both prohibit cheque cashing centres, although payday loans are not specifically included in that use category. The City of Surrey and the City of Coquitlam restrict the density of payday loan and cheque cashing businesses by requiring a 400 m and 1 km distance between locations respectively. The City of Abbotsford prohibits payday loan and cheque cashing businesses in its C7 Historic Downtown zone. The City of Langley permits "money lending and cheque cashing facilities" only in C3 zone shopping centres with enclosed pedestrian mall access.

Other local governments, including the City of Vancouver, City of Richmond, District of West Vancouver, North Vancouver (District and City), City of Port Coquitlam, and the City of Pitt Meadows, are similar to the City of Burnaby in that they do not distinguish payday lenders from other financial institutions. In these municipalities, payday lenders are generally permitted in commercial zones.

Table 2. Regulation of Payday Lenders in the Lower Mainland

Municipality	Zoning Restrictions
Abbotsford	Prohibited in C7 Historic Downtown zone
Coquitlam	Minimum 1 km separation required between cheque cashing/payday loan stores
Delta	Prohibits cheque cashing facilities Payday loans not explicitly prohibited
Langley (Township)	Prohibits cheque cashing facilities Payday loans not explicitly prohibited
Langley (City)	Money lending and cheque cashing facilities restricted to C3 zone and to shopping centres with enclosed pedestrian mall access
Maple Ridge	Prohibits payday loan and cheque cashing uses
Surrey	Minimum 400 m separation required between cheque cashing/payday loan stores
White Rock	Prohibits payday loan uses
New Westminster North Vancouver (City) North Vancouver (District) Pitt Meadows Port Coquitlam Richmond Vancouver West Vancouver	No use-specific regulations

2.8 Research on Payday Loan Users

A number of studies and polls have been conducted on payday loan users in Canada. Their results provide insight into the demographics of payday loan users, their motivations, and the impacts of these services on users and the broader community. Results of three of these studies are described below:

2014 Insights West/Vancity Poll

A 2014 poll by Insights West, commissioned by Vancity Savings Credit Union, surveyed 990 respondents in the Lower Mainland and Victoria areas. It found the following:

- Payday loan users (defined as those who have taken out at least one payday loan in the previous 12 months) represent 3% of the adult population in Lower Mainland/Fraser Valley (more than 50,000 individuals).

- Two-thirds of payday loan users take out payday loans a few times per year or more, and one-third do so "about once a month" or more frequently.
- Reasons for using payday loans vary, but most commonly include unexpected expenses (38%); bill payments (37%); debt payments (22%); and a period of unemployment/under-employment (20%).
- Payday loan users report greater financial difficulties:
    - 45% of payday loan users report their general financial situation to be poor, compared to 23% of the general population.
    - 74% of payday loan users had to borrow money from another source for an unexpected expense in the previous 12 months, compared to 25% of the general population.
    - 67% of payday loan users had fallen behind on bill payments in the previous 12 months, compared to 23% of non-payday loan users.
- Most payday loan users (58%) considered the loans to have a positive effect on their finances, primarily because it solved an immediate problem and provided a short term solution. However, one-third of payday loan users considered the loans to have a negative effect on their finances, primarily because of the expense of the required interest and fees.

2005 Stratcom/ACORN Survey

An earlier study by Stratcom, commissioned by ACORN, surveyed 419 individuals in Toronto and Vancouver who had recently taken out or repaid a payday loan. It found the following:

- Payday loan consumers are most often male, older working-age, employed, and born in Canada.
- 45% of respondents reported an annual household income of less than $30,000; 86% of respondents reported an annual household income of less than $60,000. Respondents with the lowest household income (under $30,000) were ten times more likely to report accessing a payday loan in the past year.
- Nearly all respondents had a debit card (88%) and/or a chequing account (85%), but only 58% had a savings account and only 7% had a home mortgage.
- More than 37% of respondents had taken out a payday loan six times or more in the past year, and 19% had taken out more than 10 loans in the same period.
- 52% of respondents had taken out at a payday loan in the last year immediately after paying off the last loan. 20% of respondents had done this at least six times.
- 41% of respondents did not know the annual rate of interest charged for payday loans.
- Top reasons cited for using payday loans include: ease and convenience (30%); bad credit rating/outstanding debts (25%); and emergency loans/overdue bill payments (23%).
- Many users of payday loans are people with poor credit records that they believe prevent them from getting adequate services at banks and credit unions, and/or who feel a need for quick cash to cover outstanding bills or debts.

2013 Environics/CPLA Study:

A recent study by Environics, commissioned by the CPLA, interviewed 251 randomly-selected payday loan borrowers in BC. It found the following:

- A majority (61%) of respondents had (in the past or at present) a personal loan from a bank or credit union.
- Most respondents had both debit cards (98%) and chequing accounts (94%), while few had either retail credit cards (16%) or home mortgages (11%).
- 32% of respondents stated that the main reason for using a payday loan was for emergency cash to pay for necessities; 29% stated that it was to help out with an unexpected expense.
- 51% of respondents cited the "quick and easy process" as a secondary reason for using payday loans; 22% stated they had "no other alternative for borrowing," and 13% cited bad credit.
- 96% reported a positive customer service experience with payday lenders.

2.9 Impacts of Payday Loan Services on Low-Income Individuals/Communities

Studies conducted in the United States on the broader impacts of payday lending have found that it can reduce consumer spending in low income communities, as individuals are stuck in a cycle of debt repayment. This can have a negative impact on the local economy as the individuals in question are restricted in their economic participation. In addition, lenders or creditors with lower interest rates may be impacted, as borrowers prioritize repayment of high interest payday loans over other bill or debt payments.

2.10 Alternatives to Payday Loans

In 2014, Vancity introduced the "Fair and Fast Loan" as a payday loan alternative for members. The loans are similar to payday loans in that they offer quick approvals (within one day) and loan amounts up to $1,500. They differ in that they offer:

- Installment payments (weekly, bi-weekly, or monthly)
- Longer repayment terms (up to 24 months)
- 19% annual interest rate
- Opportunity to establish a credit history and improve credit ratings

There are six Vancity locations in Burnaby, including in the Hastings Street, Lougheed Highway, Kingsway, North Road, Royal Oak commercial corridors and in the Marine Way shopping centre.

Other local credit unions and banks offer short term loan options for members/customers. However, the Vancity program is the only mainstream financial institution that specifically targets users of payday loans.

3.0 DISCUSSION

Critics contend that payday loan and similar services exploit the financial vulnerability of low income individuals by marketing loans that are easy to obtain but difficult to repay. They argue that the high interest rates and short terms of the loans, combined with the limited financial resources of the borrowers, traps individuals in a cycle of indebtedness. Although the 23% limit on fees is within the limits allowed under Provincial regulations, for a two-week loan that is compounded bi-weekly, that rate results in an annual percentage rate (APR) of approximately 598%[1], well beyond the maximum 60% APR provided for under the Federal *Criminal Code*. Moreover, if further loans are assumed to repay existing loans, the compounding fees can soar even higher.

The payday loan industry, as represented by the CPLA, responds that the industry provides a wide demographic with a needed service that is not offered by traditional financial institutions such as banks and credit unions. They assert that their industry is heavily regulated by Provincial governments as well as by the CPLA Code of Ethics. The payday loan industry also notes that given the short term and small amount of the loan, standard interest rates (such as those offered by banks for larger, longer term loans) would not cover the costs of processing the payday loan. For instance, a two-week $100 dollar loan with a 29% APR would yield only $1.12 in interest.

The results of the polls, outlined in Section 2.8 above, support the contention that the majority of payday loan users are lower income individuals that experience difficulty in meeting their financial obligations. The finding that one third of payday loan users take out loans at least once a month, and two thirds at least several times a year, indicates that many borrowers may indeed enter a cycle of indebtedness that is facilitated by the ease of obtaining a payday loan. This concern is further supported by the finding that payday loan users were three times more likely than the general population to have borrowed money from another source and/or fallen behind on bill payments in the previous 12 months.

On the other hand, borrowers reported a general satisfaction with payday loans, in that they provided an immediate solution to a financial problem. Many respondents, however, felt that the expense of the loans had a negative impact on their finances.

Given the above, it seems reasonable to conclude that payday loans and similar services may meet immediate needs but may have longer term consequences for financially vulnerable individuals. Furthermore, although businesses that derive much of their revenue from payday loan fees may require higher fees to be profitable, institutions such as Vancity have been able to develop alternative short-term loan programs with much more favourable terms for borrowers.

Regarding regulation of payday loan and similar services, as noted in Section 2.7 above, several municipalities in the Lower Mainland have either prohibited or enacted locational restrictions on payday loan and cheque cashing services. Such measures were a response to the concentration of

[1] 23% multiplied by 26 (the number of two-week periods in a year) = 598%

payday loan and cheque cashing outlets in certain areas of the community. Concerns expressed regarding the concentration of these services include:

- the potential for payday loan outlets to replace traditional banking institutions in low income communities ("bank deserts");
- the potential to incentivize loan accumulation by increased access to several payday loan outlets in one location; and,
- complaints of large numbers of patrons gathering at the outlets on paydays.

In Burnaby, payday loan and similar services in Burnaby appear in nodes of commercial activity, with the majority of locations (6 of 8) located along Kingsway. As shown in ***Appendix A***, payday loan outlets in Burnaby are located in areas with a range of average household income levels. All payday loan locations in Burnaby are in direct proximity to the locations of other financial institutions such as banks and credit unions. In addition, while six of the eight locations are located in the Kingsway corridor, they are distributed in four clusters across an approximately 3.65 km distance, from just west of Willingdon Avenue to Griffiths Drive. As such, no specific high concentration of payday loan services exists in any one area of Burnaby.

Nonetheless, given existing zoning regulations, the potential exists for payday loan and similar services to concentrate in any of the City's commercial corridors, including Kingsway, Edmonds Street, Lougheed Highway, North Road, or Hastings Street. From a land use perspective, payday lenders occupy small retail storefronts that are intended for a variety of businesses, particularly retail and restaurant uses. Given their small client base (approximately 3% of the population), specialized product, and quick service environments, a concentration of payday loan services can reduce the vibrancy of shopping districts by displacing the small retail and café uses that enliven the streetscape.

For all of the above reasons, staff recommend that Council take a number of actions to address the potential impacts of payday loan services, as outlined in the following sections of this report.

4.0 RECOMMENDED ACTIONS

Although local government does not directly regulate payday loan and similar services, several options exist to address its impacts.

4.1 Zoning Regulations

In order to prevent the proliferation of payday loan services and/or their concentration in any one area of Burnaby, staff recommend that Council adopt a text amendment to the Zoning Bylaw that would permit payday loan and similar services only within the C3g and C4g zoning districts, as is currently required for pawn shops and second hand stores (including cash for gold services). Any new locations would then require rezoning to permit the use. The rezoning process would allow for Council review of the potential impacts of the proposed location, as well as public input through the Public Hearing process. For those existing locations currently offering cash for gold services, rezoning to the C3g or C4g District must be obtained or the cash for gold services

must be discontinued. Otherwise, the existing locations can continue to operate as legal nonconforming uses under the provisions of Section 911 of the *Local Government Act.*

The recommended text amendment would also require that the term "payday loan service" be defined. It is recommended that this definition be extended to also include installment loan services and any loan service by an entity not governed by the federal *Bank Act, Trust and Loan Companies Act*, or the *BC Financial Institutions Act.*

On adoption, the proposed bylaw amendments would establish a requirement for Council specific rezoning approval of any new 'payday loan service" in Burnaby. As noted, existing legal operations could continue to operate under the provisions of the *Local Government Act* for legal nonconforming uses. Within Burnaby, these current establishments provide for public access to this service in locations that are within the north-west, south-west, and south-east quadrants of the City. It is noted, that this service is also generally available in the north-east quadrant along North Road in the directly neighbouring City of Coquitlam. While any rezoning application for expansion of this service would be considered on its own merits and in relation to community plans and needs, at this time, it is not expected that approval of further locations for expansion of this service would be warranted or supported, based on the current availability of this service in a range of locations within the City and in adjacent areas.

4.2 Provincial Regulations

As noted in Section 2.3 above, the payday loan industry is regulated by Consumer Protection BC under the *Payday Loans Regulation.* Changes to this legislation could directly improve the terms upon which loans are offered and reduce the socio-economic impacts of payday loans on borrowers and their communities.

For instance, lowering the maximum fee percentage and interest rates and, perhaps more importantly, requiring payday lenders to offer repayment in installments, rather than one lump sum, would reduce the indebtedness of borrowers and improve their ability to repay loans without further borrowing.

Similarly, extending the prohibition on the issuance of more than one loan in the same week, which currently applies only to the same lender, to include <u>any</u> lender would discourage serial borrowing and reduce the incidence and impacts of perpetual indebtedness.

Staff recommend that Council advocate for the above changes to the *Payday Loans Regulation* by the following means:

- authorization of staff to prepare a resolution to the 2015 Union of British Columbia Municipalities (UBCM) Convention and the 2016 Federation of Canadian Municipalities (FCM) Annual Conference; and,
- submission of a letter to the Provincial Minister of Justice.

4.3 Consumer Awareness

Opportunities exist to promote greater awareness of the regulations governing payday loans and similar services, the financial impacts of high-interest borrowing, and alternatives that may better meet the needs of residents. For instance, some community organizations (e.g. Burnaby Neighbourhood House, Literacy Now Burnaby, Burnaby Community Services) already engage in financial literacy activities which could be expanded to address payday loan services and related issues. Efforts could also be extended to promote awareness of existing regulations by directing the public to Consumer Protection BC's information website. In its ongoing work with community organizations, staff will encourage initiatives to foster greater consumer awareness of payday loan services and will provide support as feasible.

5.0 CONCLUSION

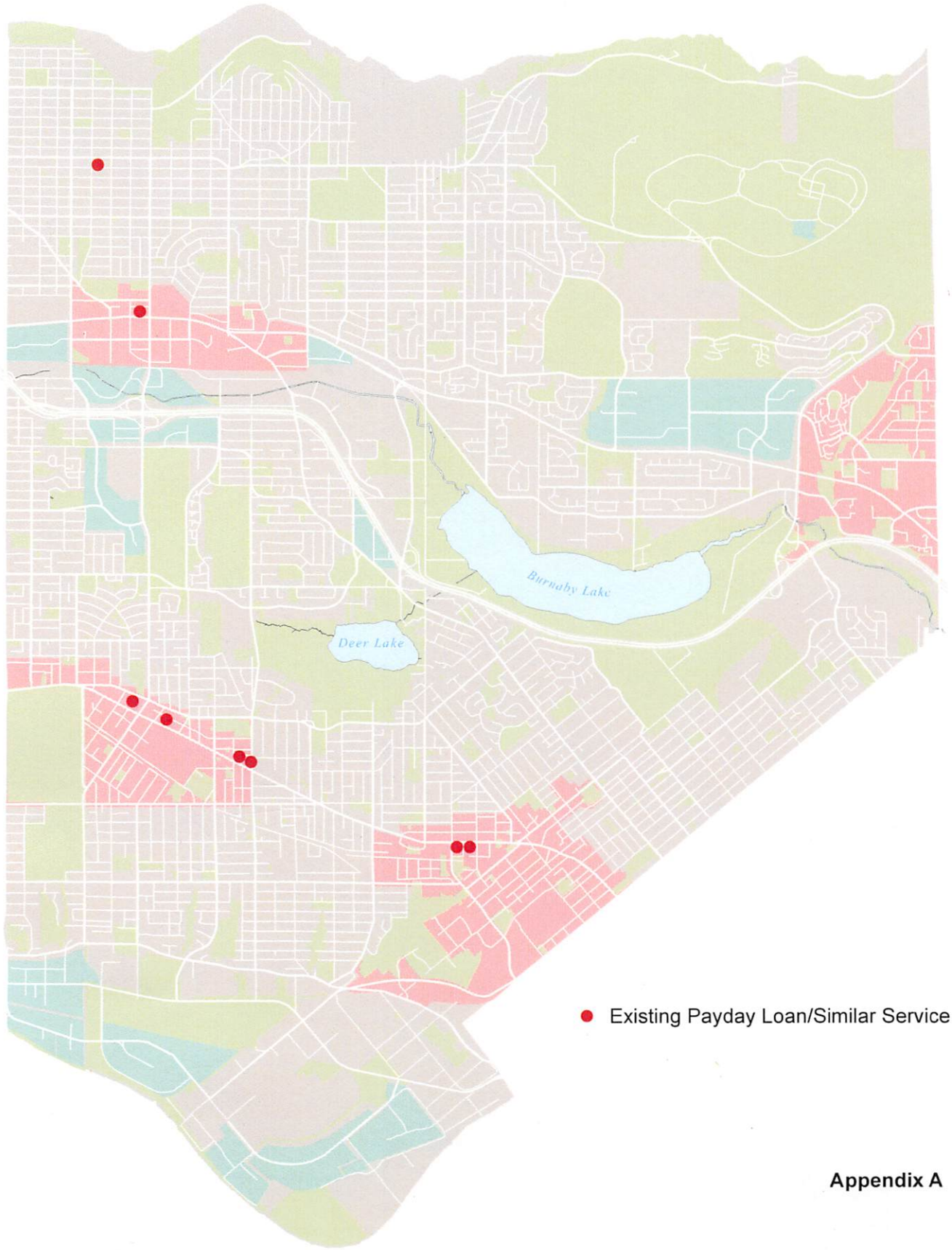
This report presents an overview of the payday loans and similar services, their regulation, potential impacts, and local context, as well as recommendations for addressing concerns regarding the community and socio-economic impacts of these services in Burnaby. It is recommended that Council amend the Burnaby Zoning Bylaw to restrict payday loan and similar services, including cheque cashing and installment loans, to the C3g General Commercial and C4g Service Commercial Districts. It is also recommended that Council advocate, both directly and through a UBCM resolution, for changes to the Provincial *Payday Loans Regulation* that would lessen the potential for chronic indebtedness among borrowers. It is further recommended that Council support staff's involvement in financial literacy education, in conjunction with local community groups. Lastly, it is recommended that a copy of this report be forwarded to the Social Planning Committee, BC ACORN, the Canadian Payday Loans Association, and to the payday loan and similar service providers operating in Burnaby.

Lou Pelletier, Director
PLANNING AND BUILDING

LF:spf/tn
Attachments

cc: City Manager
Director Finance
Chief Licence Inspector
City Clerk

P:\Lily Ford\Bylaw Amendments\Payday lenders\Payday Lenders Policy Report v4.docx


Burnaby Lake
Deer Lake
Existing Payday Loan/Similar Service

Appendix A

Code of Best Business Practices

Canadian Payday Loan Association
Association canadienne des prêteurs sur salaire

The Canadian Payday Loan Association (CPLA) represents members who provide payday loans and/or cheque cashing services to customers in Canada.

A payday loan is an unsecured short term loan to meet unexpected cash needs. Payday loans are for occasional use only and should not be used to cover continual shortfalls in a persons budgetary requirements. People who have ongoing problems meeting their financial obligations should be consulting credit counsellors. CPLA Members are committed to providing credit counselling references.

As a condition of membership, all Members of the CPLA must abide by the following Code of Best Business Practices and display this Code prominently in their places of business.

No Rollovers
A Member will not grant a customer an extension of an outstanding payday loan for a fee or advance a new payday loan to pay out their existing payday loan unless permitted by applicable legislation.

Multiple Loans
A Member shall not grant multiple payday loans to a customer that in total exceed what the Member initially approved the customer to borrow.

Default and Post-Maturity Interest Charges
A Member shall not charge a penalty fee and/or returned item fee that exceeds an amount set from time to time by the Association or such other amount that is permitted by applicable legislation. Interest on each $100 of a payday loan in default will not exceed $0.90 per week for the first thirteen weeks and $0.50 per week thereafter or such lesser amount that is permitted by applicable legislation.

Collateral
A Member may not take title to chattels or assets of a borrower as security for repayment of a payday loan.

Collection Practices
A Member will collect past due accounts in a fair, lawful and professional manner. Members are prohibited from taking an assignment of wages. A member will not threaten criminal action or use other forms of intimidation or harassment to collect outstanding amounts.

Compliance
A member shall comply fully with all laws and regulations applicable in the provinces and territories in which it operates.

Record Keeping
A Member will keep and maintain records of financial transactions with their customers in accordance with standards established by the Association or applicable legislation.

Right to Rescind
A customer shall have the right to rescind a payday loan at no cost on or before the close of the following business day or such longer period required by applicable legislation.

Privacy Protection
Members are prohibited from using personal and confidential information for marketing or other purposes unrelated to the payday loan without the consent of the customer and will comply with all privacy laws.

Advertising Guidelines
Members will respect the advertising guidelines as established by the Association and must also comply with all provincial laws governing advertising.

Disclosure to Customer
A Member shall use plain language in their documentation, will disclose all the fees, costs and interest in a clear manner and will prominently indicate the high-cost nature of the payday loan on all loan documentation. The Loan Agreement shall clearly and prominently set out all the material terms of the transaction. A Member will provide every customer with a copy of their Loan Agreement.

Education and Awareness Campaigns
Members shall prominently display the Code of Best Business Practices, the CPLA logo showing membership in the Association, credit counselling and educational brochures required by provincial legislation or the CPLA, and information on how customers can contact the Association with complaints or comments.

Member Non-Compliance
The Association will ensure Members comply with all elements of the Code. A Member will report to the Association any violation of this Code by any other Member.

Responding to Consumer Complaints
A Member must respond diligently to all complaints of their customers. If a customer is not satisfied with redress of their complaint they are invited to contact the Consumer Response and Resolution Bureau action line at 1–800–413–0147 or by email at inquiry@cpla-acps.ca. The CRRB will investigate and take any appropriate and necessary action to resolve customer complaints.

Visit the CPLA website at
www.cpla-acps.ca

City of Burnaby

Meeting 2015 May 26

COMMITTEE REPORT

TO:	CHAIR AND MEMBERS PLANNING AND DEVELOPMENT COMMITTEE	**DATE:**	2015 May 21
FROM:	DIRECTOR PLANNING AND BUILDING	**FILE:** *X.Reference:*	86000 01 *REZ #06-59*

SUBJECT: **6738 MARLBOROUGH AVENUE**
STRATA TITLE CONVERSION APPLICATION
REZONING REFERENCE #06-59

PURPOSE: To recommend the acceptance and processing of an application for the strata title conversion of a multi-family building at 6738 Marlborough Avenue.

RECOMMENDATIONS:

1. **THAT** the Committee recommend to Council that the Planning and Building Department accept and process an application to stratify the multiple family dwelling at 6738 Marlborough Avenue under Section 242 of the Strata Property Act, as outlined in this report.

2. **THAT** a copy of this report be sent to Mr. Avtar Kang, at 3626 East 47th Avenue, Vancouver, BC, V5S 1E4.

REPORT

1.0 INTRODUCTION

At the Planning and Development Committee meeting of 2015 April 28, the Committee requested that staff provide a report concerning the City's Rental Conversion Control Policy as it relates to the property located at 6738 Marlborough Avenue (see Sketch #1 ***attached***). The development of this property was authorized by Council through a rezoning process (Rezoning Reference #06-59), with the intent to create a four unit, townhouse development.

For new, unoccupied multiple family developments, registration of strata ownership plans are accepted by the Land Title and Survey Authority of BC directly. However, previously occupied units of multiple family developments, typically purpose built rental apartments, require Council approval for stratification, prior to registration at the Land Title and Survey Authority of BC.

Under the City's Rental Conversion Control Policy, in order to prevent the conversion of purpose built rental units to strata ownership, in 1974, Council declared a moratorium on all condominium conversions – except for duplex or semi-detached dwelling units.

This report reviews the circumstances of the request for stratification of the subject property in relation to established City policies and practices, and based on the intent and circumstances of this case, recommends acceptance and processing an application for stratification.

2.0 SUBJECT PROPERTY – 6738 MARLBOROUGH AVENUE

In 2006, the property owner of 6738 Marlborough Avenue submitted an application to rezone the subject property from RM3 Multiple-Family Residential District to the CD Comprehensive Development District based on the RM2 Multiple Family Residential District, and the Metrotown Development Plan guidelines (Rezoning Reference #06-59). The applicant was issued a Building Permit to construct the project in 2011 July and occupancy was approved for the building in 2013 June.

The purpose of the application was to facilitate the construction of a development consisting of a four unit multi-family building with underground parking. There were no conditions associated with the rezoning application process that would have restricted the property owner from stratifying the residential units for private sale. The owner was advised of the process and procedures required for concurrent stratification of the project's four units. The applicant, however, failed to register the final strata plans to stratify the residential units prior to occupancy by tenants. This procedural error was identified when the applicant attempted to gain approval for a Strata Plan in 2014 June.

As the occupancy of the units proceeded before a strata title application for the building was approved, the strata conversion of the property is now subject to Council's approval, as required by the Strata Property Act, and in relation to the City's Rental Conversion Control Policy.

The property owner has formally requested that the City consider the application to be exempt from the City's Rental Conversion Control Policy given the above circumstances and the intent of the development to be a fully compliant multiple-family strata property.

3.0 RENTAL CONVERSION CONTROL POLICY

As noted, in 1974, Council approved a comprehensive policy to protect existing rental housing stock. The Policy was adopted with the following provision:

"That Council declare a moratorium on all condominium conversions – except for duplex or semi-detached dwelling units..."

Exceptions to the policy have been granted previously, in similar circumstances, where a procedural error was made by applicants. Staff are aware of two specific applications at 2004-

2090 Springer Avenue (1976 – 27 unit development), and 4315-4323 East Hastings Street (1996 – 12 unit development), where Council granted approval for strata conversion recognizing the applicants' oversight in each of these cases of tenanting the buildings prior to registration of the strata title plan.

At this time, staff are not aware of any other development in Burnaby that would present a similar case for approval of stratification.

4.0 STRATA PROPERTY ACT

The following information presents the requirements and procedures for stratification of previously occupied multiple-family dwellings.

Section 242 of the *Strata Property Act* provides municipal councils with the power to approve or deny applications to stratify previously occupied multiple-family dwellings. Burnaby City Council may approve an application that is consistent with the City's bylaws and the BC Building Code.

4.1 Strata Property Act Review Criteria

Section 242 of the Strata Property Act provides criteria for Council to consider when reviewing an application to stratify a previously occupied building.

In making its' decision, Council must consider the following issues as defined by the Act:

- the priority of rental accommodation over privately owned housing in the area;
- any proposals for the relocation of the persons in the building;
- life expectancy of the building;
- projected increases in maintenance costs due to the condition of the building; and,
- any other matters that, in its opinion, are relevant.

These criteria, as discussed below, are considered for the application to stratify the building at 6738 Marlborough Street.

- ***The priority of rental accommodation over privately owned housing in the area***

The Metrotown area has a wide range of housing types and tenures including a significant number of rental housing units. The conversion of the subject property's four units to strata titled units is not considered to cause any perceived impact on the availability of rental housing within Metrotown and the City.

- ***Any proposal for the relocation of persons in the building***

The four unit multi-family property is currently occupied with tenants. The applicant has confirmed that he does not intend to sell the units after stratification and that the tenants may continue to stay in the units at their option. If the units were sold in the future, the owner would be required to meet the provisions of the Provincial Residential Tenancy Act.

- ***Life expectancy of the building***

The subject property is a new building constructed to the standards of the BC Building Code in place in 2013 for strata units. Therefore, this provision is not applicable to the subject property.

- ***Projected increases in maintenance costs due to the condition of the building***

As stated, the subject property is a new building constructed to the standards of the BC Building Code in place in 2013 for strata units. Therefore, this provision is not applicable to the subject property.

- ***Other matters considered relevant***

The subject property was approved and developed with the anticipation that it would be a strata titled property, with the applicant making the noted procedural error of tenanting the building prior to the approval of the strata title application with the Land Title and Survey Authority of BC.

4.2 Planning and Building Department Strata Application Process

For Strata Applications, the Planning and Building Department has a formalized procedure that includes referral of the application to the City's Engineering Department, Building Department, Fire Department, and City Solicitor.

This referral and review is intended to ensure that all applicable issues are resolved prior to acceptance and approval by Council of a strata application, including:

- owner's intentions for the building upon strata titling; and,
- review of any Zoning Bylaw, BC Building Code or Fire Code deficiencies.

On completion of the review process, the Planning and Building Department would prepare a further report to Council to seek final approval of the strata title application, once all the conditions of the application are met. If Council provides final approval, the Strata Plans may be deposited with the Land Title and Survey Authority of BC by the applicant.

5.0 NEXT STEPS

At the Planning and Development Committee meeting of 2015 April 28, it was requested that staff review the application of the City's Rental Conversion Control Policy to the building constructed at 6738 Marlborough Street. The subject property was developed to be a fully-compliant strata building, but the strata plans were not duly processed by the property owner, and the property was subsequently tenanted. As such, the property is subject to the *Strata Property Act* and the City's Rental Conversion Control Policy in consideration of the application to stratify the existing occupied building.

Based on the circumstances of this case, and recognizing the desired intent of the applicant to strata title the development on completion, it is recommended that, in line with Council's policy and practice, the subject property be exempted from the Rental Conversion Control Policy. The property remains subject to all the laws and procedures related to the *Strata Property Act.* On this basis, it is also recommended that staff accept and process the requested application for stratification.

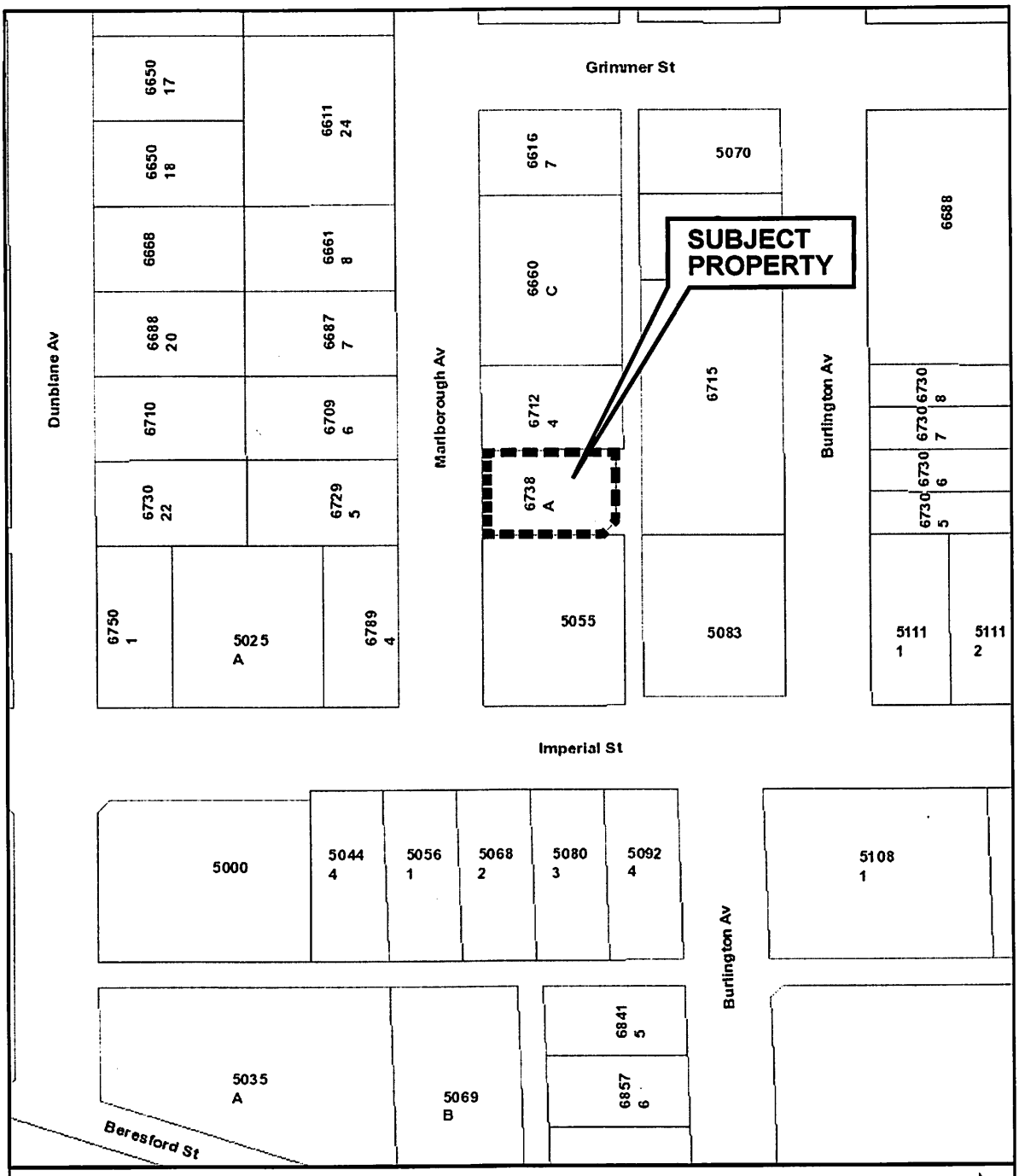
As part of the application, the owner would be required to complete all conditions resulting from the Planning and Building Department's review. Thereafter, a report would be submitted to Council recommending final approval of the strata conversion application. Once Council provides the final approval of the application, the applicant may deposit the Strata Plan with the Land Title and Survey Authority of BC.

Lou Pelletier, Director
PLANNING AND BUILDING

JW\JD\sla
Attachment

cc: City Manager
Director Engineering
Chief Building Inspector
Fire Chief
City Solicitor

R:\Long Range Clerical\DOCS\JD\Reports\6738 Marlborough Strata Title Conversion Application (2015.05.26).docx


Grimmer St
Dunblane Av
Marlborough Av
Burlington Av
Imperial St
Beresford St
SUBJECT PROPERTY
6650 17
6650 18
6611 24
6668
6661 8
6688 20
6687 7
6710
6709 6
6730 22
6729 5
6750 1
5025 A
6789 4
6616 7
5070
6660 C
6712 4
6738 A
6715
5055
5083
6688
6730 8
6730 7
6730 6
6730 5
5111 1
5111 2
5000
5044 4
5056 1
5068 2
5080 3
5092 4
5108 1
5035 A
5069 B
6841 5
6857 6
City of Burnaby
PLANNING & BUILDING DEPARTMENT
N
DATE:
MAY 19 2015
SCALE:
1:1,200
DRAWN BY:
JD
STRATA TITLE CONVERSION APPLICATION
REZONING REFERENCE #06-59
6738 MARLBOROUGH AVE.
Subject Property

Sketch #1