
TO: CHIEF ADMINISTRATIVE OFFICER 2022 May 04

FROM: GENERAL MANAGER PLANNING AND DEVELOPMENT

SUBJECT: REZONING REFERENCE #21-35
4720 Kingsway (Metrotower 2)
Licensed Childcare Facility

PURPOSE: To provide information on the issues raised at the Public Hearing for Rezoning Reference #21-35

RECOMMENDATION:

1. **THAT** a copy of this report be sent to the applicant and those who spoke at, or submitted correspondence to, the Public Hearing for Rezoning Reference #21-35

R E P O R T

On 2022 April 26, a Public Hearing was held for Rezoning Reference #21-35 (see *attached* Sketches #1 and #2). The purpose of the proposed rezoning bylaw amendment is to permit the operation of a child care facility with 147 spaces for infants, toddlers and preschool aged children.

At the Public Hearing one (1) written submission was received from Metro Vancouver, owner of Metro Tower 3 located at 4515 Central Boulevard, objecting the rezoning on the basis that an executed reciprocal operating and access easement agreement between the owners of Metro Tower 1 (4715 Kingsway), Metro Tower 2 (4717 Kingsway, Metro Tower 3 (4515 Central Boulevard), and the Metropolis Shopping Centre (4700/4750 Kingsway) is registered on title, which includes terms prohibiting owners from operating specific uses within the office towers, including childcare facilities.

The City is not a signatory to this easement, and the registered document does not include a Section 219 Covenant in favour of the City. Since the registered easement is an agreement between private property owners, the City does not have the authority to enforce the terms of the agreement. The City would only have enforcement authority if there is a Section 219 Covenant registered on title in favour of the City restricting the specific uses. However, the easement agreement also cannot fetter Council's discretion to rezone the properties to allow for specific uses, such as childcare. As such, Council has the authority to approve or not approve the rezoning bylaw amendment for the subject rezoning application at its discretion, irrespective of the registered easement.

To: Chief Administrative Officer
From: General Manager Planning and Development
Re: REZONING REFERENCE #21-35
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Notwithstanding, having received the written submission from Metro Vancouver, staff have been in contact with the applicant and have advised them to resolve the use conflict within the registered easement prior to Final Adoption. The proposed rezoning application remains supported by staff and advancement of the subject rezoning bylaw amendment to Second Reading is considered supportable.

It is recommended that a copy of this report be sent to the applicant and those who spoke at, or submitted correspondence to the Public Hearing for Rezoning Reference #21-35

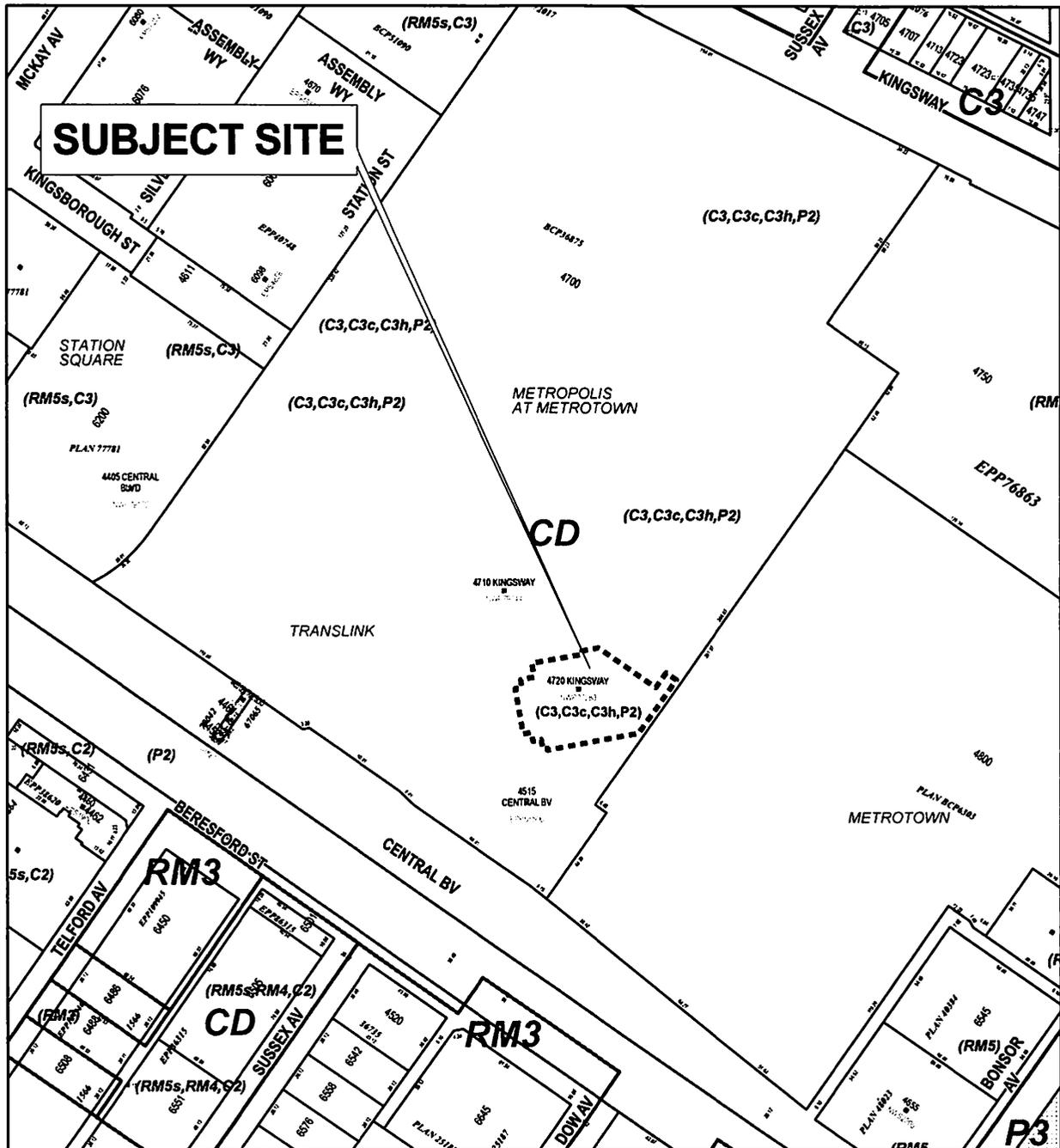


E. W. Kozak, General Manager
PLANNING AND DEVELOPMENT

JBS/PL:tn

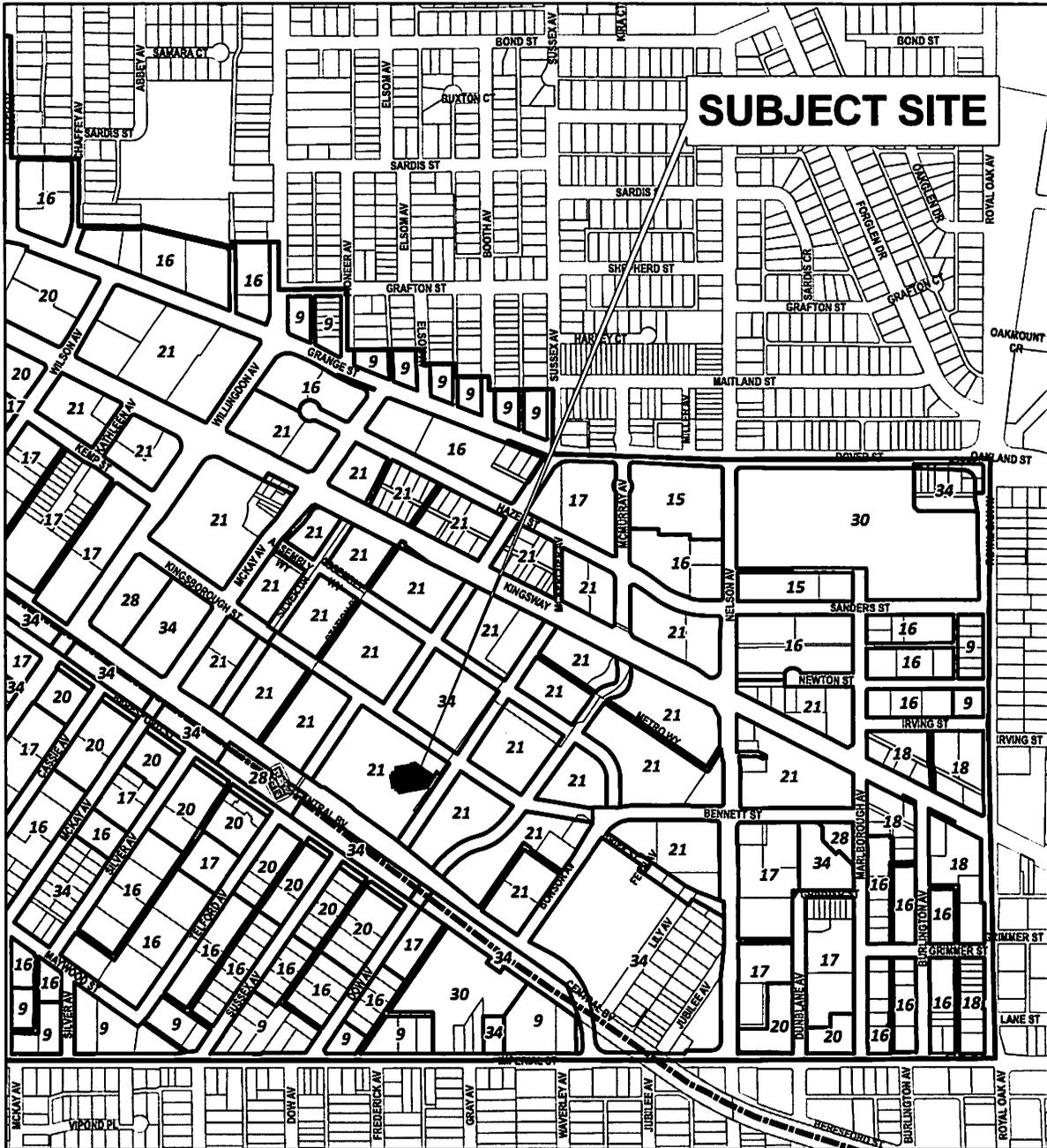
Attachments

cc: City Solicitor
City Clerk



SUBJECT SITE

	<p>PLANNING AND DEVELOPMENT DEPARTMENT</p>
<p>Date: MAR 28 2022</p>	<p>REZONING REFERENCE #21-35 5TH FLOOR- 4720 KINGSWAY</p> <p> Subject Site</p>
<p>scale: 1:3,000</p>	
<p>Drawn By: RW</p>	



- 9** Medium Density Residential (RM3s)
- 15** High Density Residential (RM5)
- 16** High Density Residential (RM4s)
- 17** High Density Residential (RM5s)
- 18** High Density Mixed Use (RM4s/C2)
- 19** High Density Mixed Use (RM4s/C3)

- 20** High Density Mixed Use (RM5s/C2)
- 21** High Density Mixed Use (RM5s/C3)
- 28** Institutional
- 30** Public School (P3)
- 34** Park and Public Use (P3)



City of Burnaby
Planning and Development Department

Metrotown Plan



Printed on March 9, 2021

Sketch #2