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(FOR COUNCIL - September 22, 2009)

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ADMINISTRATIVE REPORT

Report Date: September 8, 2009
Contact: Chris Warren
Contact No.: 604.871.6033
RTS No.: 08279
VanRIMS No.: 08-2000-20
Meeting Date: September 22, 2009

TO: Vancouver City Council
FROM: The Development Permit Board
SUBJECT: Form of Development Advice - 1450 McRae Avenue

CONSIDERATION

THAT Council consider the conclusion and advice of the Development Permit Board, regarding 1450 McRae Avenue, as follows: "That the Development Permit Board advise Council that the final form of development for 1450 McRae Avenue, (DE412659) has met the conditions laid out by Council at the time of the Public Hearing during the rezoning process".

COUNCIL POLICY

On July 7th, 2009, Council approved the following motion:

THAT Council recommend to the Director of Planning that the Form of Development of 1450 McRae Avenue be referred to the Development Permit Board and Advisory Panel for formal meeting, including hearing of delegations in order to provide advice to Council; and

FURTHER THAT a Council decision on the Form of Development of 1450 McRae Avenue be deferred until the Development Permit Board and Advisory Panel have considered the matter.

SUMMARY

The Development Permit Board and Advisory Panel met on August 10, 2009 to consider whether the final form of development has met the conditions laid out by Council at the rezoning Public Hearing. After hearing from staff, the applicant, the public and Advisory Panel members, it was the opinion of the Board that the conditions have been met.

PURPOSE

The purpose of this report is to provide the advice requested by Council. It is related to the report entitled "Form of Development: 1450 McRae Avenue", dated June 23, 2009, which recommends that Council approve the form of development for the site.

BACKGROUND

Following Public Hearings in February and March of 2008, City Council approved the rezoning of this site from First Shaughnessy District (FSD) to Comprehensive Development District (CD-1), and approved in principle the form of development for these lands. The CD-1 By-law was enacted on November 25, 2008.

Subsequently, in March of 2009, the Director of Planning approved the related development application, subject to a number of conditions. Among the conditions to be met prior to permit issuance was that City Council approve the final form of development. An Administrative Report, dated June 23, 2009, was then sent to Council on July 7, 2009, recommending approval of the final form of development.

At the July 7 meeting, Council approved the following:

THAT Council recommend to the Director of Planning that the Form of Development of 1450 McRae Avenue be referred to the Development Permit Board and Advisory Panel for formal meeting, including hearing of delegations in order to provide advice to Council; and

FURTHER THAT a Council decision on the Form of Development of 1450 McRae Avenue be deferred until the Development Permit Board and Advisory Panel have considered the matter.

Specifically, the Development Permit Board and Advisory Panel were asked to provide advice to Council on:

"Whether the final form of development as proposed under the current development application has met the conditions laid out by City Council at the time of the Public Hearing during the rezoning process."

DISCUSSION

On July 22, 2009, a notice was sent to 679 neighbours advising of the DPB meeting and the particular scope of the meeting. The Development Permit Board and Advisory Panel met on August 10, 2009. Attending the meeting were several members of the applicant team and 26 community members. Minutes of the meeting are attached as Appendix A.

The Chair began by providing context for the meeting, including Council's specific request for advice, and noting that the decisions on both the rezoning and development permit had been made. Staff then provided an explanation of the conditions which had been identified by Council at the Public Hearing and whether they had been met satisfactorily by the applicant in the development application. Copies of the June 23 Form of Development report which recommended approval and identified the conditions and applicant responses, were made available.

The applicant and members of his team spoke to the project, focusing on the process and on form of development.

Of the 26 community members who attended the meeting, 15 spoke to the Board. Of the 15, eight were opposed to the project and six were in favour, with one person not providing a position. One letter in opposition was also received. The people in opposition did not generally speak to aspects of the form of development, focusing more on issues of zoning and precedent. Regarding form of development, the issues identified were: tree retention, massing, setback and the multiple dwelling use. Several said the development was very good, but didn't think it was appropriate at that location.

Those in favour cited the quality of the development, the opportunities for community members to downsize within the community, and the retention of Nichol House.

Seven of the eight members of the Advisory Panel said that the final form of development satisfied the conditions laid out by Council. One member felt that the development was not appropriate for this site. The comments of the Development Permit Board are noted in Appendix A.

Finally, the following motion was moved and seconded by the Development Permit Board:

“That the Development Permit Board advise Council that the final form of development for 1450 McRae Avenue, (DE412659) has met the conditions laid out by Council at the time of the Public Hearing during the rezoning process” .

The meeting lasted from 3:00 pm to 6:15 pm.

FINANCIAL IMPLICATIONS

There are no financial implications.

CONCLUSION

The conclusion of the Development Permit Board, at its meeting on August 10, was that the final form of development for 1450 McRae (DE 412659) has satisfactorily met the form of development conditions identified by Council at the rezoning Public Hearing.

* * * * *

APPROVED MINUTES

DEVELOPMENT PERMIT BOARD
AND ADVISORY PANEL
CITY OF VANCOUVER
AUGUST 10, 2009

Date: Monday, August 10, 2009
Time: 3:00 p.m.
Place: Committee Room No. 1, City Hall

PRESENT:

Board

C. Warren Director of Development Services (Chair)
B. Toderian Director of Planning
P. Judd General Manager, Olympic and Paralympic Operations Office

Advisory Panel

M. Nielsen Representative of the Design Professions (Urban Design Panel)
M. Woodruff Representative of the Design Professions
S. Chandler Representative of the Development Industry
J. Stovell Representative of the Development Industry
S. Bozorgzadeh Representative of the General Public
H. Hui Representative of the General Public
A. Yan Representative of the General Public
R. Keate Representative of the Vancouver Heritage Commission

Regrets

K. Hung Representative of the General Public
K. Maust Representative of the Vancouver Heritage Commission

ALSO PRESENT:

City Staff:

R. Michaels Assistant Director Development Services
P. Storer Engineering Services - Projects Branch
S. Black Development Planner
S. Barker Project Facilitator

1450 MCRAE AVENUE

B. Bell Arthur Bell Holdings
J. Bussey Formwerks Architectural
M. Srivastava Paul Sangha Limited Landscape Architecture

Recording Secretary: L. Harvey

1. MINUTES

Ms. Warren noted that the Minutes of the Development Permit Board and Advisory Panel Meeting of July 15, 2009 were not available for review and would be included in the next Board package.

2. OPENING REMARKS FROM THE CHAIR

Ms. Warren noted that it was an unusual meeting of the Development Permit Board and started the meeting with some introductory remarks and also introduced the Board and Advisory Panel members as well as staff.

She added that the Board was not meeting in its normal capacity as an Approval Authority for a Development Permit application, but Instead, would hear from staff, the applicant and members of the public regarding: *“Whether the final form of development as proposed under the current development application has met the conditions laid out by City Council at the time of the Public Hearing during the rezoning process.”*

Ms. Warren said she was concerned that there might be some unrealistic expectations regarding the meeting and wanted to make it clear that the Board did not have the jurisdiction to review, amend or rescind the existing Rezoning approval for the site. The Board also did not have the jurisdiction to review, amend or rescind the existing Director of Planning approval for the Development Permit. These decisions have already been made. The Board also did not have the authority to approve the final Form of Development as that will be Council’s role. Ms. Warren added that the Board will only be providing advice to Council regarding the Form of Development.

Ms. Warren asked that everyone; staff, the Board, Advisory Panel, applicant and members of the public confine their comments to the Form of Development application from the rezoning. These conditions are in the Form of Development report dated June 23, 2009.

Ms. Warren then went on to explain that Form of Development is introduced at a rezoning. Of necessity, the Form of Development is preliminary and not clearly articulated. It will show, generally, the overall design of the proposed project, the massing and height, building location, setbacks, materials and landscape provisions. When Council approves a rezoning, it is inherently approving the Form of Development in principle.

After an approved rezoning, a Development Permit application is submitted, which then takes the preliminary Form of Development and resolves it in a much higher level of detail. Staff review the development application and, among other things, consider the application in light of any conditions laid out by Council at the Public Hearing for the rezoning. This has now been done for the McRae project and staff have determined that the conditions of rezoning have been satisfied. The Director of Planning has approved the development application, subject, again, to a number of conditions which must be satisfied prior to permit issuance. One of these conditions is for Council to approve the final form of development. This is standard for a development application after a rezoning.

A report on the Form of Development for McRae Avenue was considered by Council on July 7, 2009. It was at this meeting that Council deferred their decision and asked that the Board provide advice after meeting and hearing delegations.

3. 1450 MCRAE AVENUE

Applicant: Formwerks Architectural

Request: City Council has requested the Development Permit Board and Advisory Panel meet to review and provide advice to Council on whether the final form of development for the proposed Multiple Dwelling on this site has met the conditions laid out by Council at the time of the Public Hearing during the rezoning process. The Development Permit Board will not be sitting in its normal capacity as an Approval Authority on zoning matters or considering the rezoning decisions already made by Council, or the decision to approve the development application already made by the Director of Planning.

Development Planner's Opening Comments

Sailen Black, Development Planner, reviewed the Form of Development conditions established by Council and by the Director of Planning as noted in the Administrative Report of June 23, 2009; and the changes made in response. Mr. Black reviewed each section of the Report, beginning with the conditions recommended by Council at the Public Hearing during the rezoning process. The original rezoning application proposed a straight row of five three-storey townhouse units called Block B, located parallel to and downhill of the Nichol house. Staff recommended that Block B be reduced in height, which was done at the rezoning stage. In its approval in principle, Council further recommended that Block B be modified to provide more visual separation to the Nichol house, especially as seen from the public realm. The revised design in the development permit application split Block B into two parts: Building B, composed of three townhouses arranged in an arc, and Building C, a single dwelling unit. The orientation and expression of the unit in Building C was also changed to better face McRae Avenue. The alterations were made without reducing the quality of open space, and included redistributing the floor area to Block A and reducing the number of units on the site from sixteen to fifteen. Mr. Black then reviewed the remaining conditions, noting the Director of Planning's conclusion that the conditions had been met.

Questions/Discussion

In response to questions raised by the Board and Panel, the following clarification was provided by Mr. Black:

- The Form of Development includes basic height, setback, density, massing; the effect of the building on the site.
- Council, before the proposal becomes a development application, approves the Form of Development in principle. There are drawings, concepts, views and discussion that take place. In the rezoning report there was a discussion regarding the landscaping which included an arborist report. The Form of Development conditions are based on achieving certain objectives and are not prescriptive.

- Council was the original arbiter of the broad discussion of the Form of Development and it is not the purview of the Development Permit Board to reconsider that decision. Council asked the Board if the final Form of Development as proposed under the current application had met the conditions laid out by City Council.
- There were two places where trees were identified as being potentially retained. There was a small stand of sycamore maple trees in the south-west corner and because they had a slightly better quality in comparison to the other trees on the site, were identified as candidates for retention. The applicant has been asked to save the trees however, because of the retaining wall and change of grade they could not be safely retained and will be replaced by new trees. There is a magnolia tree just off the site near the Nichol House that will be retained.
- Over the course of the design development the parking entrance was moved slightly and there were some refinements to the design.
- The applicant has met the planning intent of the conditions however there is one change from the original rezoning application and that is the horizontal separation between the site and the Nichol House. The original application proposed a separation of 50.8 feet and the current application proposes between 53 and 76 feet. The application approved achieves a separation beyond what is expected where it most benefits the public view towards and from the Nichol House.
- The application includes one less unit on the whole site than what was originally seen by Council. Originally Block B's massing was reduced by 3,200 square feet which was made up in the depth of the units along the curve of the site. There was no impact on the proforma as a result of the changes that led to the preservation of the Nichol House. Staff feel this is a better urban design response.
- A development permit has already been issued for the Nichol House property and it essentially maintains the Nichol House in its current location except that the existing garage will be moved closer to the street.

Applicant's Comments

Brian Bell, Developer, noted that it had been a long, involved process since he acquired the property in 2005. The site has been rezoned for the townhouse development and they have the approval of the Form of Development in principle from Council. He said that they have satisfied all the conditions; done everything that they have been asked to regarding the proposal and couldn't see any reason why the Form of Development wouldn't be approved. Mr. Bell said they seriously considered saving the trees on the property. There has been a lot of planning and process including a public hearing, as well as a review by the Heritage Commission, by the First Shaughnessy Advisory Design Panel and by the Urban Design Panel. Everyone possible has had a say in the matter. Mr. Bell said he was hard pressed to come up with another project in the city that had gone through more extensive scrutiny. Mr. Bell stated that they were prepared and anxious to get started and hoped the Board would ratify what staff and the Director of Planning had already approved. He noted that the arborist and landscape architect were available to answer any questions. Mr. Bell said that he was proud of what the proposal has to offer and thinks that it will be an excellent addition to the corner of West 16th Avenue and Granville Street. He added that the bonus in the application is the heritage salvation of the Nichol house adding that they have already planted mature trees along the back of the property.

Jim Bussey, Architect, further described the Form of Development noting the differences between the original presentation and the current plan. He said that they had accomplished more than what Council had asked for by giving a separation of 75 feet from the Nichol house to the back of the upper townhouses. He said he felt the townhouses along McRae Avenue would have a quaint feel and would fit into the neighbourhood. The facades are distinct and with some variety along McRae Avenue. Most of the encroaching area is below grade and won't have an impact on the Nichol house. Mr. Bussey noted that they will be using very strong quality material that will be consistent with the overall Shaughnessy plan. He added that he was proud of the sustainability measures as the project would have a higher rating than most townhouse projects. Regarding the trees, Mr. Bussey noted that he wanted to save the trees but because of their condition and the construction of the project they were not able to save them. He noted that the magnolia tree near the Nichol house would be maintained.

Questions/Discussion

In response to questions raised by the Board and Panel, the following clarification was provided by the applicant team:

- The trees with have a minimum height of 6-7 feet and will be 2-3 inches in diameter.
- A number of plants will be used on McRae Avenue to give a screening to the sidewalk.
- The street trees will have a minimum height of 15 feet and will mature to over 40 feet.
- The applicant is planning to achieve Gold Standard for Built Green.

Mr. Toderian, in clarifying an earlier comment by the applicant, noted that the Director of Planning did not approve the Form of Development in principle as this is Council's purview only. Council has asked for advice from the Development Permit Board and the Form of Development will be ratified by Council.

Comments from other Speakers

The following delegations spoke in support of the application:

Jake Kerr
Alexa Allen
Frank Kelly
Barbara Kelly
Elaine Thorsell
Andre Molnar

Comments in support included:

- This has been an unfortunate process as the applicant has done a great job and the project should be approved.
- A Heritage designation went with the project in saving the Nichol house.
- The developer could have taken a different approach and could have knocked down the Nichol house which would have changed the nature of Shaughnessy.
- Someone could have divided up the lot in to four and put up monster homes that wouldn't fit into the neighbourhood.
- The project is a success for the City and for The Crescent, which is the centre of First Shaughnessy.
- There has never been a project that has been put to this kind of test.
- It is tasteful project, not a precedent, but a one off deal.

- Granville Street is a commercial thoroughfare.
- There is already a 1950 apartment building across the street and as well there are other multiple unit developments in Shaughnessy.
- It is a high quality design, well thought out with attention to detail that goes beyond the scope of most projects.
- There has been a lot of reference made regarding saving the trees but they are mostly second growth alders.
- The landscape architect has done a fantastic job with the proposed plantings.
- The lot has become home to vagrants and drug addicts and the neighbours have found drug paraphernalia around their properties.
- Surprised that Council didn't give approval for the project as the Form of Development appears to have met all the requirements.
- Staff, the architect and Mr. Bell need to be commended for a great project.
- It is a waste of tax payer's money to continue discussing the project.
- Recommend advising the City Council to approve the project.

The following delegations spoke in opposition to the application:

David Cuan

Margaret Birrell

John Madden

Leif Nelson

Angela Woo

Ruth Hamilton for Timothy Owen

Rosemary Bandel

Victor Piller

Geoffrey A. Spencer (letter received by the Board)

Comments in opposition included:

- It is a flawed CD-1 zoning to allow townhouses in this area.
- The treed site is an anchor and visual cue to First Shaughnessy and should remain undeveloped.
- Disappointed that the drawings did not show the vantage point from Granville Street.
- There needs to be a traffic impact study and well as a study of the sewer system impacts.
- The site contains 100 year old trees.
- Would like to see Bruno Freschi, Architect of the First Shaughnessy Study be retained by the City to find a solution.
- The project doesn't fit within the historical character of the neighbourhood.
- The project will destroy the character of the gateway to First Shaughnessy.
- The landscaping needs to minimize the impact of the development.
- Concerned that this development will creep into other areas of First Shaughnessy.
- Townhouses are not in the First Shaughnessy Plan and are out of character.
- The development is across the street from a heritage home (Hycroft).
- Recommend to Council that the proposal should comply with the First Shaughnessy Plan.
- This is spot rezoning and sets a poor precedent for the city.
- The architecture may look like it would fit into the neighbourhood but the topography is off.

George Heslop was neither for nor against the project but was concerned with the stream that was covered up in the 1930s and possible flooding.

Questions/Discussion

In response to questions raised by the public, the following clarification was provided by the applicant and staff:

- The Parking Bylaw does not require the provision of handicap parking spaces for each of the townhouse units. Seven of the units have elevators and the rest have the capability to have elevators added after construction.
- There is a 9 metre setback on the north arc of the property and the CD-1 By-law permits the Director of Planning to reduce that to 6.7 metres. The intent was to give the Director of Planning the ability to consider limited reductions in the setback along McRae Avenue.
- There wasn't any compensation for the addition of a swimming pool on the Nichol house property. The pool has now been removed from the plans.
- The possibility of a stream on the property has been reviewed by Engineering Services staff and is part of the prior-to conditions regarding the Water Course Management Plan. This issue will be satisfied before the permit is issued.

Panel Opinion

Mr. Nielsen said the Urban Design Panel reviewed the application at rezoning and it was supported. They also reviewed the application at the development permit stage and again the project was supported. There were a number of improvements since the rezoning including a more appropriate architectural massing, especially to Building B. Mr. Nielsen said he felt the current development application had met all the conditions as set out by Council.

Matthew Woodruff said he was confused about why the application had come before the Development Permit Board. He felt the applicant had met all the conditions.

Mr. Chandler said the developer had gone a long way in responding to the points and recommendations made by the Planning department in all areas of the project. He said there were some specifics of the Form of Development that were of outstanding quality and worthy of note. The way the project responds to the massing is a vast improvement over the scheme that was presented to Council. The breaking up of the east portion of the site, the lowering of Unit C and the separation between the Nichol house and the development have all been well handled. As well, how the project fits into the neighbourhood and the streetscape has been well handled. Mr. Chandler said he thought the landscape was memorable and distinctive. He also felt that when the project is complete it will reinforce the gateway to Shaughnessy and will complement the older apartment building across the street. Mr. Chandler said that he would advise Council to approve the project as the Form of Development had met the conditions.

Mr. Stovell thought it was a fantastic development and that the developer and architect had done excellent work. He felt the Form of Development had met all the conditions that were set out at the public hearing. Mr. Stovell said the Board needed to make a clear and concise statement to Council that the applicant had met all the conditions. He also thought the Board should further consider letting Council know that this type of process in having the Development Permit Board hearing input from the public on the Form of Development is potentially very destabilizing to the development industry that is already at tremendous risk

from the established public policy processes. He added that this type of step could seriously affect financing, the schedule and other costs and in this case he didn't think this has been an appropriate referral to the Development Permit Board.

Mr. Keate said the Heritage Commission had supported the application and felt that all the conditions Council had asked for had been met by the applicant. Mr. Keate suggested the landscape architect incorporate more coniferous trees other than just deciduous trees.

Mr. Yan agreed that the applicant had met all the conditions laid out by Council. He added that creating a secondary process in reviewing the application that had already been approved by Council sets another unfortunate roadblock to approval and this type of step should not be allowed to take place with future developments.

Mr. Hui agreed that the application had met all the conditions laid out by Council. He thought it was a well designed development and the alternative would have been three or more very large houses which he said he would not like to see on the site. His only concern was traffic flow as West 16th Avenue and Granville Street was already a very busy intersection but felt that Engineering Services would address that issue.

Ms. Bozorgzadeh felt the Form of Development did not have much transparency. She noted the large wall and felt it wasn't in harmony with the rest of the neighbourhood.

Board Discussion

Mr. Judd thanked the public for attending the meeting in light of how limited the Board's purview was regarding the application. Mr. Judd noted that the Board was required to answer the question: "had the development application met the conditions laid out by Council?" He agreed that the applicant had met the conditions as laid out by Council at the public hearing and made a motion regarding the Board's advice to Council.

Mr. Toderian thanked the public noting that he thought it had been challenging for the public to understand, in this case, what is within the Board's purview and what is not. He said that he often regrets that the Board is not able to fully discuss broader processes as the Board is limited in their scope. He noted that staff was very clear in their conclusion that the conditions had been satisfied, and the Board was there to listen to the public, to the applicant and to the Advisory Panel members as to whether they agreed. He added that all the comments would directly flow to Council; not just the recommendation and motion of the Board. Mr. Toderian noted that the Advisory Panel members were in general agreement, with some concern from one Advisory Panel member about the "higher" level issues of form that were addressed in the zoning. Mr. Toderian added that the Board had heard sixteen members of the public, six of whom were in support of the Form of Development, one who was neither for nor against and nine who spoke against the application. He noted that there were people who were representatives of larger groups.

Mr. Toderian said he found it interesting that a couple of the speakers were property owners of adjacent properties who would be directly affected by the development and had positive comments about the design. He said he also found it interesting that there were members of the community who were supportive as they are looking for opportunities to downsize within First Shaughnessy.

There were a number of speakers who were against the application and Mr. Toderian said he listened carefully to hear whether or not their reasons for opposition were issues that could be addressed in the context of the conditions from Council or whether they were continued fundamental disagreement about the initial rezoning. There were comments that the project was a lovely development but was in the wrong location, had the wrong building typology and essential form. Again, these were comments that Council had considered at the time of the public hearing. He said there were comments made about whether or not the City “broke the rules” of policy, and noted that Council heard considerable discussion on that issue and made their decision at the initial public hearing. Mr. Toderian said he heard very little from those in opposition that was about the nature of the question that was put to the Board. He said that the Board only heard two comments regarding landscaping and the Board would let Council know those issues dealt with the value of additional landscaping and the calibre of the initial plantings.

Mr. Toderian noted that there was a question from one of the Advisory Panel members regarding the basic architectural expression /style; however, this concern was not addressed by the public or other Advisory Panel members.

Mr. Toderian again thanked the members of the public for coming to the Board meeting. He noted that the public often speaks in terms of not being listened to regarding their issues. He said he hoped that the Board had established that the speakers were in fact listened to and were heard. Mr. Toderian noted that there is a fundamental difference between being heard and being agreed with. He hoped that the Board had answered many of their questions even when they weren't technically relevant to the question being put to the Board from Council. Mr. Toderian said that Council had considered the issues at the initial public hearing and the Board had to consider whether what was heard at the meeting was in the context of the Board's purview.

Mr. Toderian seconded Mr. Judd's motion. He agreed with the Advisory Panel members and staff that the specific conditions given to the Board by Council had been adequately addressed and in many cases exceeded. He added that he thought the applicant had gone above and beyond the City's standard requirements and the specific requirements laid out by Council in the public hearing.

Mr. Toderian said that he wanted to clear up the issue of precedent. There were members of the public who seemed very concerned with the possibility of other applications of this type being approved in Shaughnessy and in other areas of the city. He said that precedent does not exist officially or unofficially in Planning. For a decision to even be perceived as a precedent the context would have to be identical or at least highly similar and there are no two projects that are ever exactly alike. Sameness is affected by contact, context, timing, policy, available information, etc. Even if an identical circumstance was observed Council and staff are not bound by precedent. Mr. Toderian said that advice to Council was based on the application's location relative to the rest of Shaughnessy and Council ultimately agreed that there was something special about the context and circumstances for the McRae Avenue application. He noted that there isn't anything in the application that would suggest a result in 20-storey buildings in other areas of the city or even additional projects of this type in First Shaughnessy, as suggested by some speakers.

Motion

It was moved by Mr. Judd and seconded by Mr. Toderian and was the decision of the Board:

THAT the Development Permit Board advise Council that the final Form of Development for 1450 McRae Avenue, DE412659, has met the conditions laid out by Council at the time of the public hearing during the rezoning process.

4. OTHER BUSINESS

None.

5. ADJOURNMENT

There being no further business, the meeting adjourned at 6:15PM