



POLICY REPORT DEVELOPMENT AND BUILDING

Report Date: April 5, 2011
Contact: Kent Munro
Contact No.: 604-873-7135
RTS No.: 09156
VanRIMS No.: 08-2000-20
Meeting Date: April 19, 2011

TO: Vancouver City Council
FROM: Director of Planning
SUBJECT: CD-1 Text Amendment: 99 West 2nd Avenue

RECOMMENDATION

- A. THAT the application, by Pinnacle International to amend CD-1 (464) (By-law No. 9600) for 99 West 2nd Avenue, to allow an increase in the maximum height permitted in sub-area 2 from 35.63 m to 41.2 m and a 1 962 m² increase in the maximum permitted floor area in sub-area 2, be referred to a Public Hearing, together with:
- (i) plans prepared by Bingham Hill Architects received August 30, 2010;
 - (ii) draft CD-1 By-law amendments, generally as presented in Appendix A; and
 - (iii) the recommendation of the Director of Planning to approve, subject to conditions contained in Appendix B;

FURTHER THAT the Director of Legal Services be instructed to prepare the necessary amending By-law generally in accordance with Appendix A for consideration at Public Hearing.

- B. THAT, if the application is referred to a Public Hearing, consequential amendments to the Southeast False Creek Official Development Plan to increase the floor area limits for maximum total floor area and for maximum residential floor area for the whole of the Southeast False Creek area and for Area 2B, as set out in Appendix C, be referred to the same Public Hearing, together with the recommendation of the Director of Planning to approve;

FURTHER THAT the Director of Legal Services be instructed to prepare the necessary amending By-law generally in accordance with Appendix C for consideration at Public Hearing.

- C. THAT Recommendations A and B be adopted on the following conditions:
- (i) THAT the passage of the above resolution creates no legal rights for the applicant or any other person, or obligation on the part of the City; any expenditure of funds or incurring of costs is at the risk of the person making the expenditure or incurring the cost;
 - (ii) THAT any approval that may be granted following the Public Hearing shall not obligate the City to enact a by-law to amend By-law CD-1 (464) and that any costs incurred in fulfilling requirements imposed as a condition of amending By-law CD-1 (464) are at the risk of the property owner; and
 - (iii) THAT the City and all its officials, including the Approving Officer, shall not in any way be limited or directed in the exercise of their authority or discretion, regardless of when they are called upon to exercise such authority or discretion.

GENERAL MANAGER'S COMMENTS

The General Manager of Community Services RECOMMENDS approval of the foregoing.

COUNCIL POLICY

Relevant Council policies for this application include:

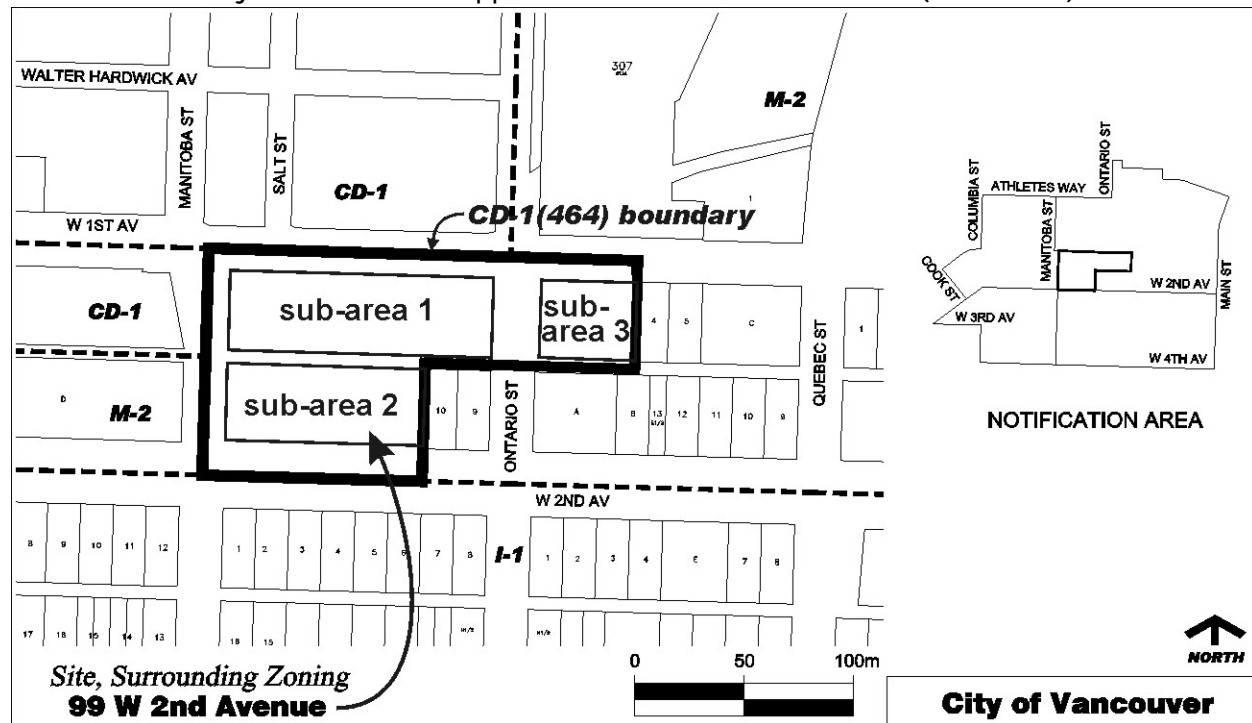
- CD-1 (464) (By-law No. 9600), enacted February 26, 2008 and amended June 24, 2008
- Southeast False Creek Official Development Plan (July 19, 2005 and last amended July 20, 2010)
- Financing Growth (Community Amenity Contributions) (June 24, 2003 and amended February 12, 2004)
- Southeast False Creek Public Benefits and Compatible Housing Strategy (June 15, 2006)
- Southeast False Creek Public Realm Plan (July 20, 2006)
- Rezoning Policy for Greener Buildings - EcoDensity Charter - Action A-1 (June 10, 2008)
- Design Guidelines for Additional Penthouse Storeys in Southeast False Creek (adopted July 20, 2010).

PURPOSE AND SUMMARY

This report assesses an application by Pinnacle International to amend the existing CD-1 (464) to increase the maximum height permitted at 99 West 2nd Avenue (sub-area 2) from 35.63 m to 41.2 m and to increase the maximum permitted floor area by 1 962 m². This request follows from the Design Guidelines for Additional Penthouse Storeys in Southeast False Creek, approved on July 20, 2010, which provide design guidance for height increases of up to two floors in Southeast False Creek developments. The changes presented by this report affect only 99 West 2nd Avenue (sub-area 2) (see Figure 1, below). Zoning changes contemplated for the other two sub-areas within the CD-1 boundary will be considered under separate applications and reports.

Staff have reviewed the application, concluded that the amendments proposed are supported by existing policy and recommend that the application be approved with conditions, subject to a Public Hearing.

Figure 1 - CD-1 site and notification area
Subject site for this application is 99 West 2nd Avenue (sub-area 2)



DISCUSSION

Background

The CD-1 By-law, which resulted in the rezoning of properties at 99 West 2nd Avenue, 1700 Manitoba Street and 26 East 1st Avenue, was enacted on February 26, 2008. It permits development in three sub-areas with a total of four towers ranging in height from 8 to 15 storeys. The maximum height for 99 West 2nd Avenue (sub-area 2) is 35.63 m (116.9 ft.). The form of development approved for that sub-area, under permit DE411230, consists of commercial uses at grade along the 2nd Avenue and Manitoba Street frontages, one 12-storey residential tower on the corner and a mid-rise podium mid-block. The approved podium consists of five full floors with a partial sub-penthouse 6th floor and a smaller 7th floor penthouse at the east end of the rooftop. While the Southeast False Creek ODP indicates 6 storeys as the optimum height for the mid-block element, the two penthouse levels were approved in 2008 on the basis that the partial nature of the penthouse floors allowed the podium to overall express as a lower form.

At present, under development permit DE411230, the total floor area approved for 99 West 2nd Avenue is 11 803 m² (127,055 sq. ft.). This permit was issued September 24, 2010.

Proposed CD-1 Amendments

In response to the Southeast False Creek Design Guidelines for Additional Penthouse Storeys, the applicant has made this rezoning application and a concurrent development permit application (DE414175) for a revised form of development. The proposal consists of adding two partial penthouse floors to the approved 12-storey tower, and increasing the mid-block podium by one floor. The form of the podium is proposed as before, with partial sub-penthouse and penthouse levels, except its overall height increases from 7 to 8 storeys.

The two partial penthouse floors on the tower and the additional floor on the mid-block element add 1 962 m² (21,120 sq. ft.) of residential floor space to the development, for a total floor area of 13 766 m² (148,175 sq. ft.). The Floor Space Ratio would increase from 3.50 FSR to 4.08 FSR. The total number of dwelling units would increase from 133 to 156 and the required minimum number of family units (i.e. units having two bedrooms or more) would increase from 34 to 39 units. The application proposes 64 units that qualify as family units.

The maximum height permitted in sub-area 2 of the CD-1 is 35.63 m (116.9 ft.). This height would increase by 5.57 m (18.27 ft.) to 41.2 m (135.2 ft.) to allow the additional two storeys in the tower. This increase is within the 6.25 m allowed for in the Southeast False Creek Official Development Plan for partial penthouse floors.

Form of Development (Note Plans: Appendix D)

The form of development for 99 West 2nd Avenue is largely unchanged from that previously approved, apart from the increased height and number of storeys of the residential tower and the one-storey increase of the mid-block element. Staff have reviewed this application and assessed it in the context of the Design Guidelines for Additional Penthouse Storeys in Southeast False Creek. The Guidelines call for smaller, partial floors on the upper two levels, no intrusions into public view corridors, a high quality of architectural expression, consistency with the original scale of the building(s), for the proposed additions to integrate well with the existing building(s) and for the development proposal as a whole to complement adjacent development.

Staff support the application to amend CD-1 (494) for 99 West 2nd Avenue because:

- The proposed height is within the 44.35 m permitted by the Southeast False Creek ODP for partial penthouse floors (i.e., 6.25 m above a limit of 38.10 m). The upper two floors of the tower and the podium have smaller floor plates than, and are set back from, the floors below them;
- No public view corridors are affected by the increased building height;
- The overall scale, design and architectural expression of the additions are virtually the same as what is already approved and staff consider these matters well resolved in a way that reinforces the urban design objectives of the ODP;
- The potential for increased shadow impact was reviewed. It was found that, due to the setting back of the added floors from the floors below, there was no appreciable increase in shadowing;
- It is staff's opinion that the additional two floors on the tower and one to the podium integrate well with the overall massing;

- The proposal includes extensive roof decks that will provide a high degree of amenity to future residents. The roof decks and other roof areas meet the Southeast False Creek ODP requirements for green roofs and urban agriculture, and for private and semi-private (e.g. strata-oriented) activities.

PUBLIC BENEFITS

The Southeast False Creek ODP includes a comprehensive public infrastructure and amenity package to serve the Southeast False Creek area. This includes parks, public realm and infrastructure improvements, childcare, community centre, library, and affordable housing. In June 2006, Council adopted the Southeast False Creek Public Benefits and Compatible Housing Strategy which included:

- establishing an area-specific Development Cost Levy (DCL) district for the Southeast False Creek ODP area in addition to the City-wide DCL, and
- the objective of achieving 20% affordable housing in the Southeast False Creek Private Lands supported by Community Amenity Contributions (CACs).

Development Cost Levies (DCLs)

This development is subject to both the Citywide DCL and the Southeast False Creek DCL. The current rates for these DCLs are \$10.42 per sq. ft. and \$15.68 per sq. ft. respectively, for a total of \$26.10 per sq. ft. This development was due to pay \$3,316,136 in combined DCLs as previously approved. If the additional floor area is approved as per the rezoning application, an additional \$551,232 in combined DCLs would be received, for a total of \$3,867,368. DCLs are payable at building permit issuance at the rates in effect at that time. DCLs collected in Southeast False Creek are spent on park land, affordable housing, infrastructure and childcare in accordance with the Public Benefits Strategy for Southeast False Creek.

Community Amenity Contributions (CAC)

The City's Financing Growth Policy anticipates a voluntary Community Amenity Contribution (CAC) from applicants for rezonings, including text amendments, which seek an increase in height or density. The contribution is to address some of the costs of growth and the off-site impacts of additional development and is evaluated by City staff in light of the increase in land value expected to be generated by the rezoning.

For the initial CD-1 rezoning approval in July 2006, a total CAC offering of \$4,140,316 was accepted (for all three sub-areas). \$1,463,686 of this CAC was subsequently paid to the City for 99 West 2nd Avenue (sub-area 2) in February 2008.

For the current application, the applicant has offered an additional CAC of \$2,028,576, which is based on 85% of the estimated increase in land value of \$2,386,560 that would result from the addition of the floor area in the penthouses, if approved. Staff recommend that this offer be accepted. Payment of the CAC is secured through a rezoning enactment condition (see Appendix B).

Staff recommend that \$242,880 of the \$2,028,576 CAC be allocated to affordable housing based on the Southeast False Creek Public Benefits and Compatible Housing Strategy (which sees \$11.50 of CAC funds per sq. ft. of total project floor area allocated to affordable housing). For the remaining \$1,785,696, staff are in the process of reviewing additional CAC funds accruing to various projects in Southeast False Creek and will bring forward allocation recommendations once the review is completed.

Public Art

A public art budget was established at the time of the rezoning approval in 2006 based on public art fees of \$0.95 per sq. ft. of floor area. For 99 West 2nd Avenue, that equates to \$120,702 for the 127,055 sq. ft. of floor space approved under the previous development permit.

The current public art fee is \$1.81 per sq. ft. Based on the 21,120 sq. ft. of additional floor area proposed, an additional \$38,227 would be expected. The total expected public art budget for 99 West 2nd Avenue becomes \$158,929. A rezoning condition in Appendix B provides for the public art agreement to be revised to add \$38,227 to the budget.

FINANCIAL IMPLICATIONS

Approval of the report recommendations will have no financial implications with respect to the City's operating expenditures, fees, or staffing.

CONCLUSION

Staff have reviewed the application by Pinnacle International to revise CD-1 (494) for 99 West 2nd Avenue to permit an increase in maximum permitted building height from 35.63 m (116.9 ft.) to 41.2 m (135.2 ft.), an increase in the maximum permitted density by 1 962 m² (21,120 sq. ft.), and to amend the approved form of development to permit increases of two floors on the tower and one floor on the podium. Upon review and analysis, staff have concluded that the proposal is supportable. The Director of Planning recommends that the application be referred to a Public Hearing, together with the draft by-law amendment contained in Appendix A, and consequential amendments to the Southeast False Creek Official Development Plan contained in Appendix C, and that, subject to Public Hearing, the application be approved subject to conditions contained in Appendix B.

* * * * *

99 West 2nd Avenue
DRAFT AMENDMENTS TO CD-1 (464) (BY-LAW NO. 9600)

Note: An amending By-law will be prepared in accordance with the provisions listed below, subject to change and refinement prior to posting. Text ~~crossed out~~ is to be deleted and text in **bold** is to be added.

(a) Replace section 6.1 with the following:

In sub-area 2, the floor area for all uses must not exceed 13 766 m².

(b) Replace section 6.2 with the following:

In sub-area 1 and sub-area 3 combined, the total floor area for all uses must not exceed 22 340 m².

(c) Amend Section 7.2 to state as follows:

In sub-area 2, the building height, measured above base surface, and to the top of the roof slab above the uppermost habitable floor excluding parapet wall, must not exceed ~~30.34 m~~ **41.2 m**.

* * * * *

99 West 2nd Avenue
PROPOSED CONDITIONS OF APPROVAL

Note: The recommended approval conditions supplement or amend those approved by City Council for this site at its meeting of September 26, 2006.

Recommended approval conditions will be prepared generally in accordance with the draft conditions listed below, subject to change and refinement prior to finalization of the agenda for the Public Hearing.

FORM OF DEVELOPMENT

- (a) That the revised form of development be approved by Council in principle, generally as prepared by Bingham Hill Architects, and stamped "Received City Planning Department, August 30, 2010", provided that the Director of Planning may allow minor alterations to this form of development when approving the detailed scheme of development as outlined in (b) below.
- (b) That, prior to approval by Council of the form of development, the applicant shall obtain approval of a development application by the Director of Planning, who shall have particular regard to the following:

1. design development to the architectural expression, better integrating the southwest corner with floors 10 to 13, through more consistent material application, detail and colour;

Note to Applicant: The intent of the massing is to visually link the vertical expression of the southwest corner expression with the upper massing of floors 10 to 13. This can be achieved through greater emphasis of the horizontal elements such as floor slab projections, balconies and railings in terms of greater similarity of form, detail and colour.

2. design development to all exterior roof access stairs, providing details;

Note to Applicant: These architectural appendages located at the rooftop level are highly visibility and require detailed resolution to better understand their intended effect.

CONDITIONS OF BY-LAW ENACTMENT

- (c) That, prior to enactment of the amended CD-1 By-law, the registered owner shall, at no cost to the City, and on terms and conditions satisfactory to the Director of Legal Services, to the Director of Planning and to the General Manager of Engineering Services, as necessary, make arrangements for the following:

Engineering Services

1. Arrangements to the satisfaction of the General Manager of Engineering Services and the Director of Legal Services for the following:

- (i) Provision of appropriate legal agreements for the proposed solar louvers shown at the 10th level and above that encroach over public property. An application directed to the City Surveyor is required and should include rationale supporting the request to encroach.
- (ii) Updating of the existing car share agreement to provide:
 - Car share vehicles and spaces as follows: one vehicle and designated parking space are to be provided for 50 to 149 dwelling units, two vehicles and designated parking spaces are to be provided for 150 or more dwelling units.
 - For future car sharing, at least one additional designated car share parking space must be provided per 100 dwelling units (but no less than one for the site)

Note to Applicant: Car share spaces must be provided on-site in an area with 24-hour accessibility (e.g. within visitor parking.)

Note to Applicant: The current CD-1 By-law allows for relaxations and reductions in the Parking By-law. The provision of less than the minimum parking may occur, subject to approval by the Director of Planning in consultation with the General Manager of Engineering Services and of a site-specific Transportation Demand Management (TDM) plan that restricts residents' car ownership and supports other means of mobility. Guarantee of zero-based unbundled parking assignment shall result in a 10% reduction in the minimum requirement.

Public Art

2. Revise the public art agreement to increase the public art contribution by \$38,227, satisfactory to the Directors of Legal Services and the Managing Director of Cultural Services.

Community Amenity Contribution

3. The agreed Community Amenity Contribution of \$2,028,576 is to be paid to the City and such payment is to be made prior to enactment of the by-law to amend CD-1 (464), at no cost to the City and on terms and conditions satisfactory to the Director of Legal Services.

Note: Where the Director of Legal Services deems appropriate, the preceding agreements are to be drawn, not only as personal covenants of the property owners, but also as Covenants pursuant to Section 219 of the Land Title Act.

The preceding agreements are to be registered in the appropriate Land Title Office, with priority over such other liens, charges and encumbrances affecting the subject sites as is considered advisable by the Director of Legal Services, and otherwise to the satisfaction of the Director of Legal Services prior to enactment of the by-laws.

The preceding agreements shall provide security to the City including indemnities, warranties, equitable charges, letters of credit and withholding of permits, as deemed necessary by and in a form satisfactory to the Director of Legal Services. The timing of all required payments, if any, shall be determined by the appropriate City official having responsibility for each particular agreement, who may consult other City officials and City Council.

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99 West 2nd Avenue
DRAFT CONSEQUENTIAL AMENDMENTS

Note: Amending by-laws will be prepared generally in accordance with the provisions listed below, subject to change and refinement prior to posting.

DRAFT AMENDMENTS TO THE
SOUTHEAST FALSE CREEK OFFICIAL DEVELOPMENT PLAN
(BY-LAW NO. 9073)

[All additions are shown in **bold**, Deletions are shown in ~~strikeout~~.]

Amend Section 4.2 as follows:

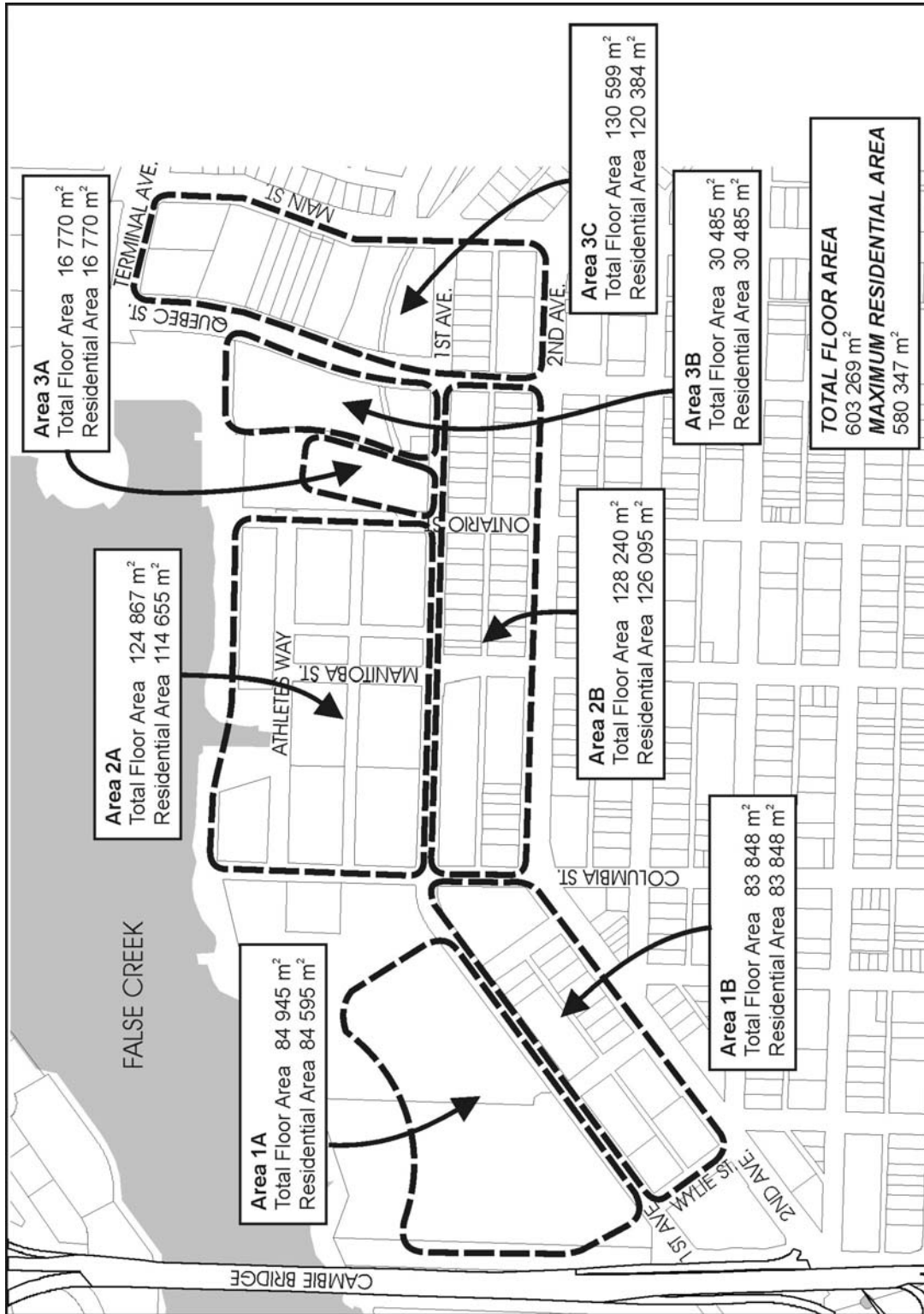
Density

4.2 The basic floor area allowance for all uses developed after February 1, 2005, except cultural, recreational and institutional uses, is not to exceed ~~601 307~~ **603 269** m².

Amend Sub-Section 4.3.1 as follows:

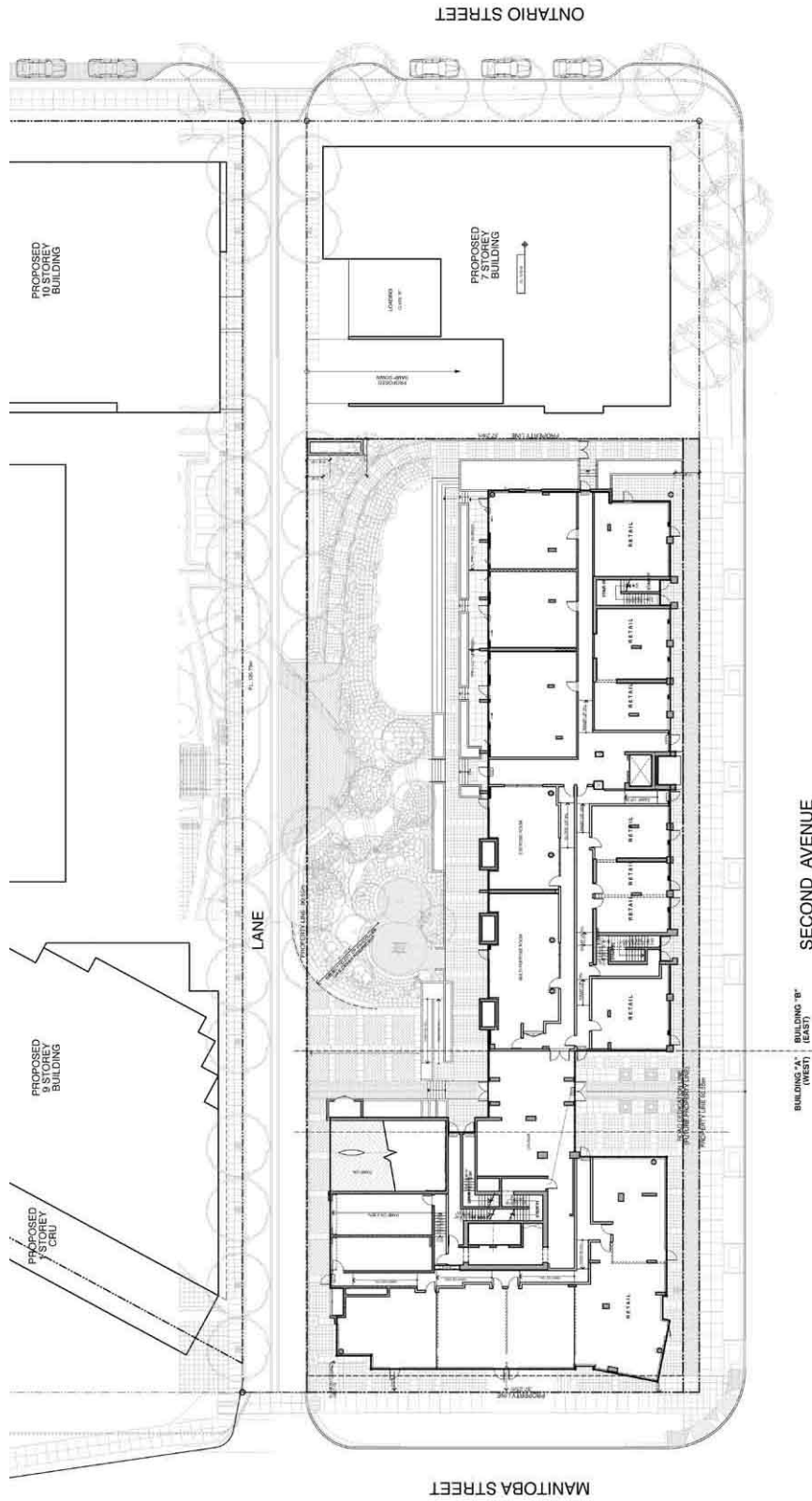
- (a) the basic residential floor area allowance for all areas is not to exceed ~~578 385~~ **580 347** m²;
- (e) in areas 1B and 2B, the basic residential floor area allowance is not to exceed ~~211 497~~ **213 459** m², subject to confirmation at the time of the applicable CD-1 rezoning;

Substitute Figure 9 in Section 6 with the following amended figure:

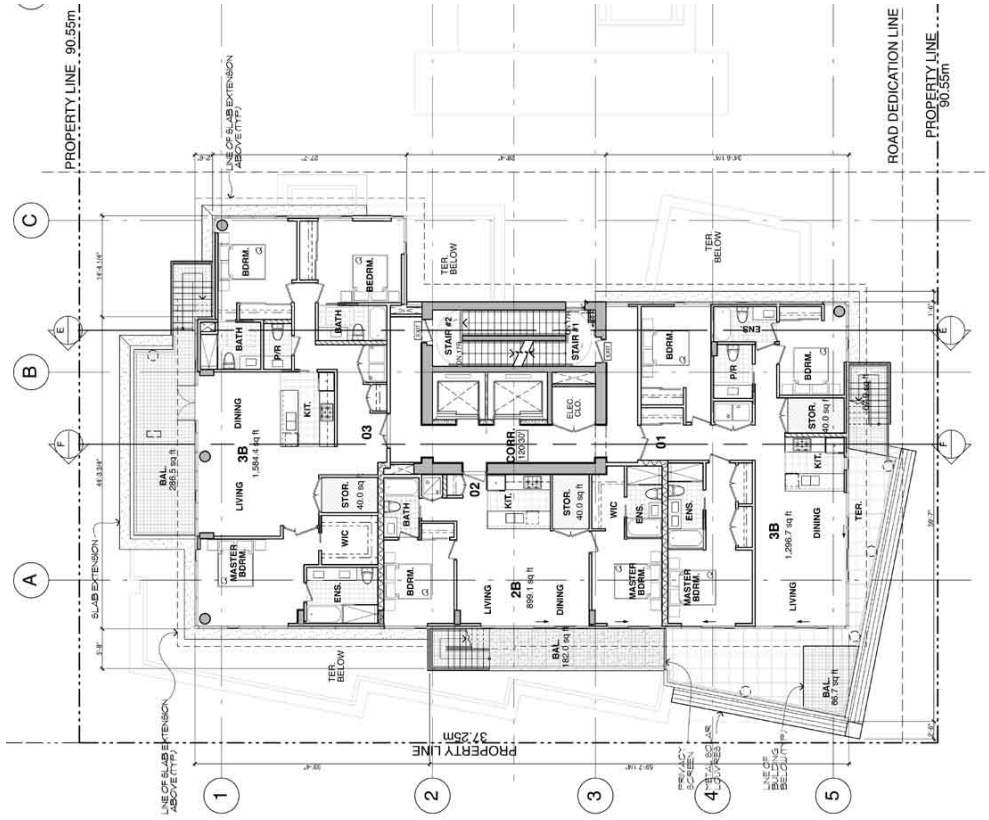


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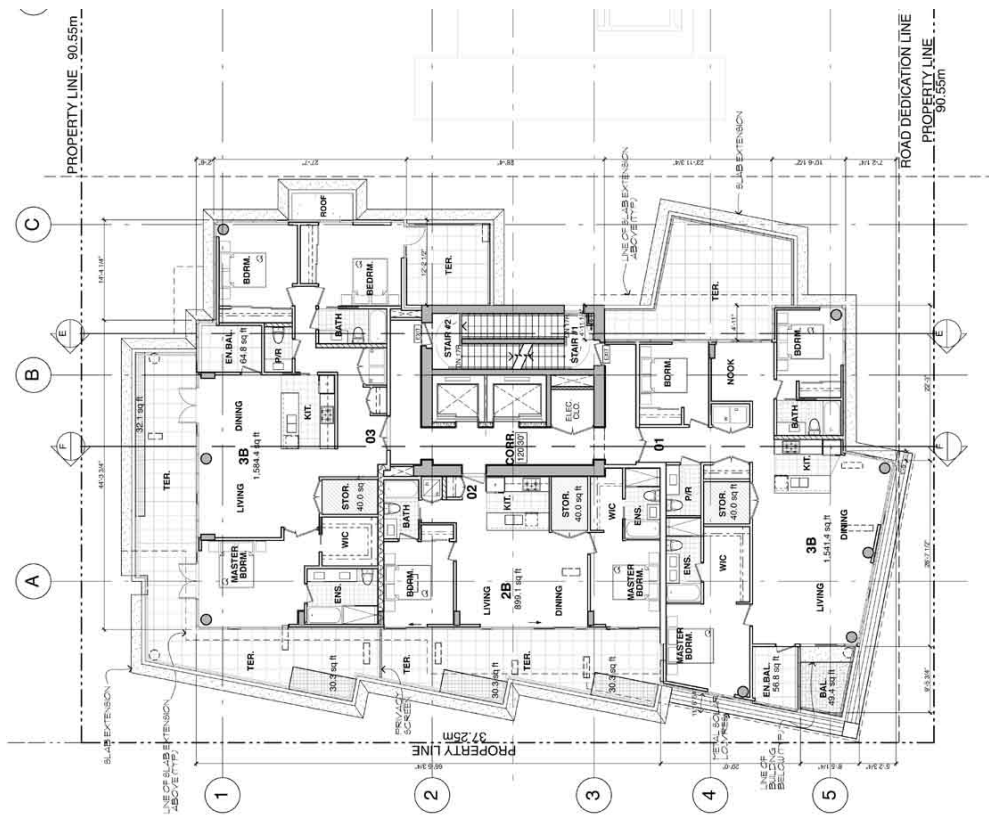
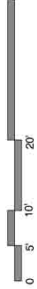
99 West 2nd Avenue
Form of Development



Ground Floor Plan

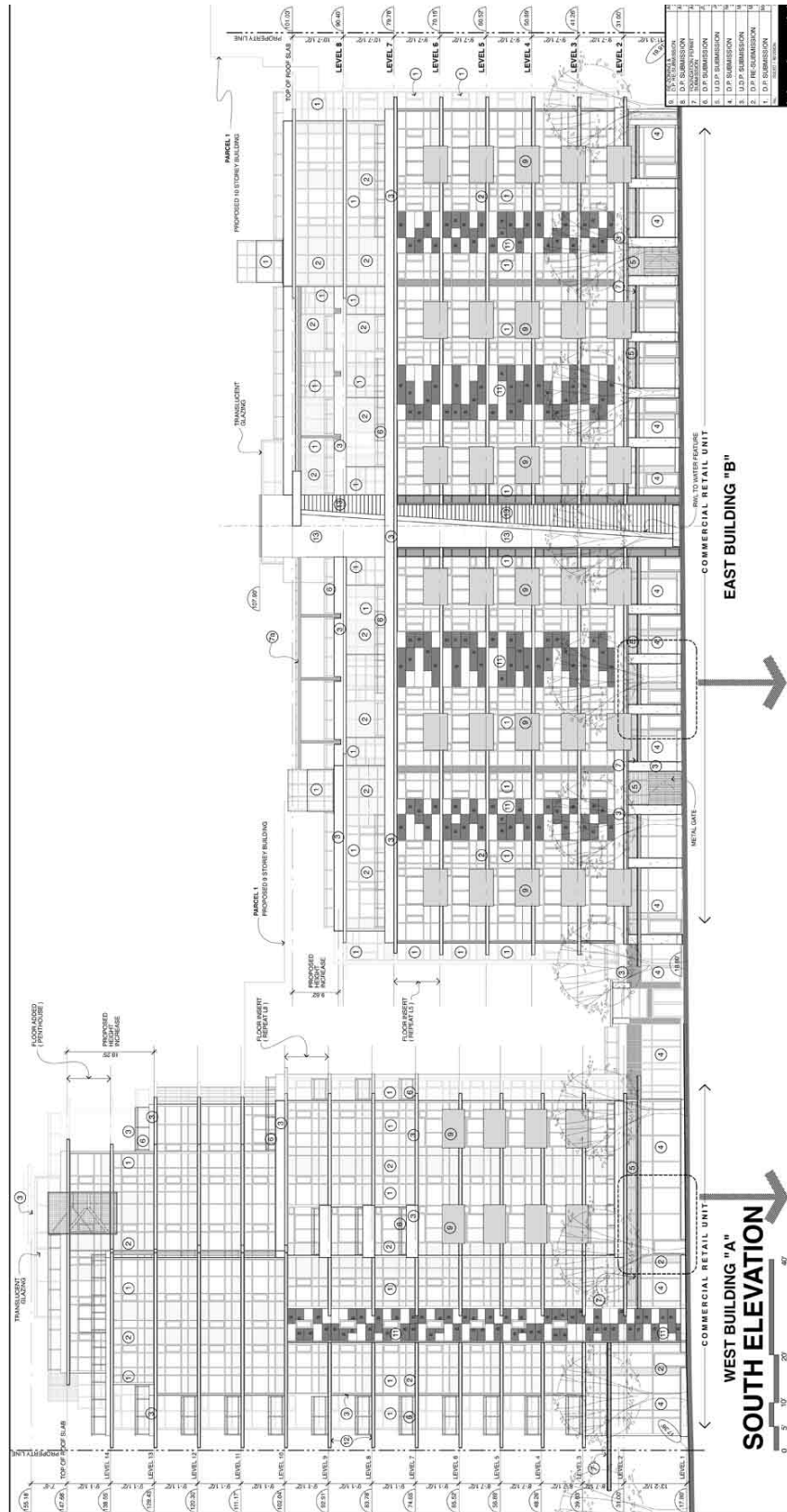


WEST BUILDING "A"
LEVEL 14 (PENTHOUSE)



WEST BUILDING "A"
LEVEL 13 (SUB-PENTHOUSE)





99 West 2nd Avenue
ADDITIONAL INFORMATION

Public Input: A notification letter was sent to property owners within the notification area on December 6, 2010 and a rezoning information sign was posted on the site on or near December 9, 2010. No comments were received.

Engineering Services: In a memo dated November 10, 2010, the Projects Branch Manager of Engineering Services stated that he has no objection to the proposed rezoning provided that certain issues are addressed. To ensure that Engineering Services' issues are addressed, rezoning conditions have been provided in part (c) of Appendix B.

Comments of the Applicant: The applicant has been provided with a copy of this report and agrees with its contents.

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99 West 2nd Avenue
PUBLIC BENEFITS SUMMARY

Project Summary:

Amend existing CD-1 to allow for additional floor area and height for partial penthouse floors,
as per Southeast False Creek policy.

Public Benefit Summary:

The proposal would generate additional DCL, CAC and public art contributions. (Note: The initial rezoning to CD-1, enacted in 2008, has about \$4.9 million in public benefits not show here. Only the additional benefits are shown.)

	Current Zoning	Proposed Zoning
Zoning District	CD-1	amended CD-1
FSR (site area = 3,372.5 m ² or 36,302.5 sq. ft.)	3.50	4.08
Buildable Floor Space (sq. ft.)	127,055	148,175
Land Use	resid./comm.	same

Public Benefit Statistics		Value if built under Current Zoning (\$)	Value if built under Proposed Zoning (\$)
Required*	DCL (City-wide)		\$220,070
	DCL (Area Specific - Southeast False Creek)		\$331,162
	Public Art		\$38,227
	20% Social Housing		0
Offered (Community Amenity Contribution)	Childcare Facilities		
	Cultural Facilities		
	Green Transportation/Public Realm		
	Heritage (transfer of density receiver site)		
	Housing (e.g. supportive, seniors)		\$242,880
	Parks and Public Spaces		
	Social/Community Facilities		
	Unallocated		\$1,785,696
Other			
TOTAL VALUE OF PUBLIC BENEFITS			\$2,618,035

Other Benefits (non-market and/or STIR components):

* DCLs, Public Art and Social Housing may have exemptions and/or minimum thresholds for qualification. For the City-wide DCL, revenues are allocated into the following public benefit categories: Parks (41%); Replacement Housing (32%); Transportation (22%); and Childcare (5%). Revenue allocations differ for each of the Area Specific DCL Districts.

99 West 2nd Avenue
APPLICANT, PROPERTY, AND DEVELOPMENT PROPOSAL INFORMATION

APPLICANT AND PROPERTY INFORMATION

Street Address	99 West 2nd Avenue
Legal Description	Lot B, Block 9, District Lot 200A, Plan BCP45966
Applicant	Pinnacle International
Architect	Bingham Hill Architects
Property Owner	Pinnacle International (West First) Plaza Inc.
Developer	Pinnacle International

SITE AREA	3 372.5 m ²
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DEVELOPMENT STATISTICS

	DEVELOPMENT PERMITTED UNDER EXISTING ZONING	PROPOSED DEVELOPMENT	RECOMMENDED DEVELOPMENT (if different than proposed)
ZONING	CD-1(464)	CD-1(464)	as proposed
USES	Cultural, Recreational, Retail, Service, and Residential	Cultural, Recreational, Retail, Service, and Residential	as proposed
DWELLING UNITS	133	156	as proposed
Max FLOOR AREA	11 803 m ² (127,055 sq. ft.)	13 766 m ² (148,175 sq. ft.)	as proposed
MAX. FLOOR SPACE RATIO	3.50	4.08	as proposed
MAXIMUM HEIGHT	35.63 m	41.2 m	as proposed
MAX. NO. OF STOREYS	12	14	as proposed
PARKING SPACES	As per Parking By-law	As per Parking By-law	as proposed