

Date: Monday, April 29, 2002
Time: 3.00 p.m.
Place: Committee Room No. 1, City Hall

PRESENT:**Board**

F. Scobie Director of Development Services (Chair)
L. Beasley Director of Current Planning
B. MacGregor Deputy City Manager
D. Rudberg General Manager of Engineering Services

Advisory Panel

W. Francl Representative of the Design Professions (Urban Design Panel)
J. Hancock Representative of the Design Professions
J. Leduc Representative of General Public
R. Bruce Scott Representative of General Public

Regrets

P. Kavanagh Representative of Development Industry
J. Ross Representative of Development Industry
D. Chung Representative of General Public
M. Mortensen Representative of General Public

ALSO PRESENT:

R. Segal Development Planner
M. Thomson City Surveyor
B. Boons Co-Manager of Processing Centre - Development
C. Warren Assistant Director, Development Services

Item 3 - 1228 West Hastings Street

L. Lund Lund Architecture Ltd.
B. Babiki Land owner

Clerk to the Board: C. Hubbard

1. MINUTES

Minutes of April 15, 2002 will be available at the next meeting.

2. BUSINESS ARISING FROM THE MINUTES

None.

**3. 1228 WEST HASTINGS STREET - DE406667 - ZONE DD
(MINOR AMENDMENT - HERITAGE DENSITY TRANSFER)**

Applicant: Lund Architecture Ltd.

Request: To receive 3,949 square feet heritage density bonus floor area, transferred from 400 West Hastings Street, for counting as floor space those areas previously excluded as enclosed balconies but not constructed as such.

Development Planner's Opening Comments

The Development Planner, Ralph Segal, presented this application for a Minor Amendment, referring to his memorandum dated April 26, 2002. He noted the development is now built but not yet occupied. Referring to a posted floor plan, Mr. Segal pointed out the three areas on a typical floor (floors 14 - 25) which have enclosed balconies that were not constructed in accordance with the approved plans and are not in compliance with the Enclosed Balcony Guidelines. These enclosed balconies were excluded from the FSR calculation. Two photographs of the enclosed balconies were circulated for information.

In order to reconcile the floor area calculations, the application for Minor Amendment proposes to include the enclosed balconies in FSR by transferring heritage density to the site. A detailed plan check has determined that 3,909 sq.ft. is required. The applicant has confirmed that 3,949 sq.ft. has been purchased from a donor site. Transfer of heritage density must be approved by the Development Permit Board and staff recommend approval to allow the developer to proceed with occupancy of the building.

In response to a question from Mr. Beasley as to what other remedy might be available, Mr. Segal advised the alternative would be to bring the enclosed balcony spaces into conformance with the approved drawings, which would entail removing the hardwood floor which has been installed and replacing it with tiled floor. Mr. Scobie added, another alternative would be for the applicant to apply for a Minor Amendment to allow the enclosed balconies to be retained as constructed. The very likely refusal of such an application could then be appealed to the Board of Variance.

Applicant's Comments

Leo Lund, Architect, advised the building was designed in conformance with the regulations. During construction, however, the owners chose to carry the hardwood floors through to the enclosed balcony spaces, in place of the tile that was shown on the drawings. Mr. Lund said he agreed to allow them to proceed on this basis. He noted the by-law indicates the balconies must be wheelchair accessible and moisture impervious, both of which have been complied with. He suggested the by-law requirement for moisture impervious floors is open to interpretation, noting the manufacturer has assured them the hardwood is moisture impervious. He added, carrying the hardwood through to the balcony also facilitates compliance with the requirement for wheelchair accessibility. Nevertheless, the owner has agreed to purchase heritage density from the adjoining property to allow the balconies to remain as constructed because hardwood floors are more marketable than tiled floors. Mr. Lund said he has no objection this solution.

In response to a question from Mr. Beasley as to the floor material specified in the approved drawings, Mr. Segal confirmed the drawings indicate "tile". The Enclosed Balcony Guideline states, *floor surfaces should be impervious, such as tile, to allow the space to be used as a greenhouse solarium for gardening, for example, or other amenity use.* Mr. Segal explained, the intent for excluding enclosed balconies from FSR is that they afford the occupant year-round enjoyment of those uses to which an open balcony normally would be used in fair and warm weather, ie., the enclosed balcony should be a different space from the interior of the suite. He added, the City has been consistent in the application of this guideline. There is no requirement for a floor drain, and any threshold must be flat to allow wheelchair access.

Comments from Other Speakers

Mr. Babiki, owner of the property, advised a serious mistake has occurred due to interpretation of the regulations and examples of other buildings in Vancouver which have been permitted with hardwood floor in enclosed balconies. Mr. Babiki offered his apologies for the error and asked the Board to consider the best solution for correcting the mistake by allowing the developer to purchase heritage density. He noted that most of the units are sold, so changing the floor material at this stage would have serious implications.

Mr. Scobie advised that late last week the City issued occupancy permits for those units in the building that are in compliance with the regulations, so some units are likely now occupied.

Panel Opinion

Mr. Francl advised the Urban Design Panel did not consider this application for Minor Amendment. Noting the Urban Design Panel generally deals only with urban design issues, Mr. Francl said nothing will be changed in the exterior appearance of this building. The requested transfer of heritage density is clearly the most expeditious way of dealing with the matter. He supported staff's recommendation for approval.

Mr. Hancock, Ms. Leduc and Mr. Scott concurred with Mr. Francl. Ms. Leduc said she thought staff had found a creative solution for dealing with the issue. Mr. Scott urged that steps be taken to ensure that this situation is not repeated. He stressed that the heritage density bank should not be relied upon as a remedy.

Board Discussion

Mr. Beasley stated that his motion of approval is based on Mr. Babiki's acknowledgement of the error that had been made and his expressed desire to find a solution. Mr. Beasley added, he also appreciated the difficulties that a change of material would cause where units have already been sold. However, he stressed that, in principle, he is opposed to this kind of resolution because the City does not want to see balconies repeatedly turned into interior space. Clearly, the only way to avoid compromising that principle is to bring more floor space to the development as opposed to some other solution. He emphasized, however, that it should not be considered as a precedent.

Mr. MacGregor, in seconding the motion, said it is clear that the development permit drawings were not complied with. The issue is that certain rules accompany an exclusion from FSR for enclosed balconies and if these rules are not complied with, the balconies should be included in FSR. He said the only reason he supports the application is that the building is already constructed and the error does not affect the exterior appearance of the building. While the heritage density transfer does provide a solution, it is definitely not the solution for this situation to continue in the future. Mr. MacGregor noted the City will be working with the Urban Development Industry to ensure it is not repeated.

Mr. Rudberg advised his opinion has been reflected in the comments of other Board members. He added, the situation is symptomatic of the complexities the City adds to the regulations, but he agreed this is the best solution possible at this time.

Mr. Scobie observed that, had this development application come before the Board from the outset seeking a heritage density transfer to allow the kind of interior spaces desired by the developer, it is likely the Board would have no difficulty with it. He said his concern was the way in which the City has arrived at the position of having to transfer the density to resolve a deficiency from what had been approved in the preceding process.

With the approval of this application, Mr. Scobie noted that once the development permit is issued with the amendment to allow the hardwood floors in the enclosed balconies there will then be a companion revision approved to the building permit to ensure consistency between the development and building permit drawings. Then, subject to resolution of any other outstanding issues the District Building Inspector may have, an occupancy permit will be issued for the units in question.

Motion

It was moved by Mr. Beasley and seconded by Mr. MacGregor, and was the decision of the Board:

THAT the Board APPROVE Development Application No. 406667 and the heritage density transfer, subject to the inclusion of the normal standard conditions, to be included on the permit documents, prior to final issuance of the development permit.

4. OTHER BUSINESS

Visitor Parking and On-Site Loading for Larger Residential Projects

This matter was raised by the Chair at the request of Mr. Beasley. There are currently no provisions in the Parking By-law for visitor parking and on-site loading for larger residential projects. Both issues have been the source of frequent and protracted discussions and concerns between staff and applicants. Staff have recently concluded that, until such time as there is a report to Council and a by-law amendment, staff will not be seeking these requirements. Rather, they will be put forward to the Board for consideration. Mr. Scobie expressed concern that this would not be consistent with the Board's practice - particularly with respect to on-site loading.

Mr. Rudberg said he would not be prepared to change the Board's practice at this time without further discussion with staff, noting that visitor parking and on-site loading are important considerations for larger residential developments.

Board members agreed the matter needs to be discussed further. In discussion, it was agreed to raise the matter under Other Business at the meeting of May 27, 2002, noting there should be no change in the Board's current practice in the interim.

Chris Warren, Assistant Director, Development Services, advised a directive has already been issued to all affected staff, indicating the change would be effective immediately. This directive will need to be rescinded.

There being no further business, the meeting adjourned at 3.35 pm.

C. Hubbard
Clerk to the Board

F. Scobie
Chair

/ch