

Date: Monday, December 8, 2003  
Time: 3.00 p.m.  
Place: Committee Room No. 1, City Hall

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**PRESENT:****Board**

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

**Advisory Panel**

S. Lyon Representative of the Design Professions (Urban Design Panel)  
D. Chung Representative of the General Public  
T. Durning Representative of the General Public  
C. Henschel Representative of the General Public  
J. Leduc Representative of the General Public (present for 1299 Seymour only)

**Regrets**

J. Hancock Representative of the Design Professions  
P. Kavanagh Representative of the Development Industry  
E. Mah Representative of the Development Industry

**ALSO PRESENT:****City Staff:**

R. Segal Sr. Development Planner  
A. Molaro Development Planner  
M. Mortensen Project Facilitator  
G. McGeough Heritage Planner  
M. Thomson City Surveyor  
J. Barrett Development Planner  
A. Higginson Project Facilitator

**1299 Seymour Street**

G. Borowski Merrick Architecture  
R. Bayley Merrick Architecture  
J. Patillo Cressey Seymour Development Ltd.

**901 Mainland Street**

B. Wall Wall Financial Corporation  
D. Buttjes Buttjes Architecture Inc.  
J. Durante Durante Kreuk Landscape Architects

Clerk to the Board: C. Hubbard

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**1. MINUTES**

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

THAT the Minutes of the Development Permit Board and Advisory Panel Meeting of November 10, 2003 be approved.

**2. BUSINESS ARISING FROM THE MINUTES**

None.

**3. 1299 SEYMOUR STREET - DE4077723 - ZONE DD  
(PRELIMINARY APPLICATION)**

**Applicant:** Merrick Architecture

**Request:** To construct a 34-storey residential tower with a 4.5 storey townhouse plinth; to preserve and renovate the existing Liberty Building (1295 Seymour).

**Development Planner's Opening Comments**

The Development Planner, Anita Molaro, presented this application which was deferred by the Board when it was first considered on September 29, 2003. The Board requested further investigation of alternative schemes and their impact/performance, including a two-tower solution as well as refinement of the current single-tower proposal. Ms. Molaro referenced her presentation with a model and posted drawings, and a memorandum from the Development Permit Staff Committee dated November 26, 2003.

Staff facilitated two workshops with the applicant and the residents, and had separate meetings with both parties. Staff have reviewed the alternative schemes and have assessed their performance, both quantitatively and qualitatively. These proposals include further assessment of the original preliminary application, a revised single tower, a two-tower option that retains the Liberty Building, and a two-tower option that does not retain the Liberty Building. Staff have concluded their analysis and recommend approval in principle of a further revised single tower scheme that would improve views and privacy for Space residents beyond that indicated in the preliminary proposal or in the revised, slimmer single tower proposal presented at the workshops with residents of Space. Ms. Molaro provided an overview of the comparative analysis leading to staff's conclusion, as outlined in the memorandum. The Staff Committee's recommended conditions of approval are contained in Appendix A of the memorandum, and Appendix B contains recommended conditions of approval if the Board decides to approve a two-tower scheme.

Michael Mortensen, Project Facilitator, advised that on November 5, 2003, 1,404 letters were sent to neighbouring property owners, advising them of this meeting and the options being considered by the Board. Two workshops were held with the Space residents and the owners of Seymour Place, 600 Drake Street, and the Granville Block were also consulted. A submission has been received from Space, recommending a two-tower option, and letters of support for a single tower option have been received from owners of the Granville Block, Seymour Place and

600 Drake Street. As well, there are three letters in support of the single tower from Space residents, and two in support of the twin tower scheme.

#### Questions/Discussion

Mr. Beasley commented that he found the submission from Space very interesting. He expressed surprise that staff have not provided a comparison of impact on the park between the two options. Ms. Molaro noted that some analysis was provided at the previous meeting and there would be only a slight difference with a further revised single tower scheme and a two-tower option. In the single tower option, shadowing reaches the edge of the park at 3.00 pm and increases thereafter. She noted that shadowing in public places is typically measured up to 4.00 pm. In a two-tower scheme, shadowing reaches the park at 4.00 pm.

Mr. Beasley noted the Space submission reviewed impacts on all the neighbouring buildings and concluded that the best performing scheme is a two-tower scheme which retains the Liberty Building. Ms. Molaro explained that the staff analysis did not include 600 Drake and the Granville Block in terms of the distance relationship because they are beyond the 80 ft. minimum separation. A major concern for staff was that a two-tower scheme results in a separation of only 52 to 70 ft. between the northerly tower and Seymour Place. As well, the separation between the two towers would also be only 75 ft. Ms. Molaro briefly described the differences between the Space analysis and staff analysis. In response to a question from Mr. Beasley, she confirmed that the Space conclusions are defensible if one accepts their assumptions which exclude the lower Space units (because they will be affected in any scenario), and include all the neighbouring buildings.

Mr. Beasley noted the staff analysis of a two-tower scheme did not include a taller, slimmer tower and a lower tower with a larger than typical floor plate. Ms. Molaro confirmed that such a scheme would come close to the guidelines although with a 75 ft. separation between the two towers and between the lower tower and Seymour Place.

In response to a question from Mr. MacGregor concerning the Liberty Building, Gerry McGeough, Heritage Planner, advised it is currently not on the Heritage Register. However, it has been evaluated and the Heritage Commission has determined it should be on the register. Its value lies in it being one of the last remaining, and one of the most significant examples of the automobile showrooms that once existed on Seymour Street. It is also a very good example of an Early Modern building in Vancouver, and is a local landmark that retains some context during redevelopment of the area. In discussion, Ms. Molaro confirmed that, in terms of numbers of units impacted, a two-tower scheme without the Liberty Building performs better than a two-tower scheme with the Liberty Building. The Space conclusions differ because their calculations include 600 Drake Street and the Granville Block and do not differentiate the value of the location of the towers in relation to Seymour Place.

Mr. Beasley sought clarification regarding the position of the Park Board with respect to impacts on the park. Ms. Molaro advised the Park Board concluded that a lower tower would not improve the shadow impacts at equinox unless ten or more floors are deleted, but between equinox and solstice even a smaller reduction in height begins to pay off in terms of shadow impacts. The Park Board was concerned about shadowing on the park but appreciated the view corridor restrictions and the desire to retain the Liberty Building. Ms. Molaro noted that staff did explore a two-tower option that retained the Liberty Building and still concluded that a single tower scheme performs better, as outlined in the original Staff Committee Report dated September 17, 2003.

In response to a question from Ms. Leduc as to whether the double height windows of Space were taken into account, Ms. Molaro advised it is not the practice in staff analyses to give weight to the area of windows. However, staff believe the privacy impacts will be minimized in a further revised single tower scheme because it reduces the number of compromised units and locates only secondary rooms facing units in Space.

In response to a question from Mr. Beasley, Ms. Molaro confirmed that if the assumptions made in the Space analysis are accepted, their conclusions are quite comparable with the calculations made by staff using a different set of assumptions, i.e., for the assumptions it makes, it is accurate. Mr. Beasley commented that this is a very sophisticated achievement for a community organization.

In response to a question from Mr. Henschel regarding the Liberty Building, Mr. McGeough said retention of the façade would preserve only part of its heritage value and its integrity as a showroom would be lost. In response to a question from the Chair, Mr. McGeough confirmed that it is not uncommon for buildings to be omitted from the heritage register as a consequence of the way the list was first established.

#### **Applicant's Comments**

Greg Borowski, Architect, thanked the Board for bringing the proposal back to the table. He said they believe the consultation with Space and other neighbours has been a good process. Mr. Borowski provided a Power Point presentation describing their analysis and conclusions, noting an objective has been to accomplish an equitable distribution of impacts. He noted that their early discussions with staff included a two tower proposal but it rapidly became obvious that the issues of interface outweighed the impacts of a single tower mass. They also believe the Liberty Building should be retained as a valuable piece of Vancouver's heritage. In summary, they believe a single tower scheme is the best solution.

#### **Questions/Discussion**

In response to a question from Mr. Beasley regarding the staff recommendation for further slimming of the applicant's revised, single tower, Mr. Borowski confirmed they believe it can be achieved. In discussion regarding the two-tower option, he said they would be opposed to locating a 13-storey building over the Liberty Building. However, the impacts if this is not done puts the second tower in unacceptable proximity to Seymour Place. Their preference, in order of priority, would be: (1) single tower; (2) two towers without the Liberty Building and (3) two towers with the Liberty Building.

Questioned by Mr. Beasley with respect to the marketing aspects of the various options, Mr. Patillo advised there would be livability concerns with the two-tower scheme which would mean the units would be less marketable.

In response to a question from Mr. Scobie regarding the recommended conditions of approval for the two scenarios, Mr. Borowski reiterated that they would have concerns about livability with the two-tower scheme, particularly in terms of proximity to Seymour Place. For either option, Mr. Borowski requested the Board to consider allowing the complete application to be dealt with by the Director of Planning on the Board's behalf, noting the delay in processing that has already occurred.

#### **Comments from other Speakers**

Mike McHolm provided a PowerPoint presentation on behalf of the Space Tower Committee, a group of concerned residents, property owners, community members and other citizens who

are against a single tower form of development on this site. He described what they believe are problems with the single tower solution. They believe a better solution would be a 13 - 14-storey tower at the corner of Seymour and Drake Streets with a larger footprint and having a partial infringement on the view corridor. He urged the Board to reject the proposed single tower scheme and requested the developer to submit a revised, lower density proposal.

Mr. Beasley thanked Mr. McHolm for an excellent presentation and sought clarification as to whether his analysis was supported by the Space Strata Council. Mr. McHolm confirmed that copies of the report had been made available to the Strata Council, of which he is a member. He noted that many of the residents on the east side of Space are not directly impacted except with respect to shadowing on the park. Mr. Beasley said he was concerned with whether the Space Committee's impact assessment represented the views of all the residents of the building or just those who stand to lose or gain the most. Mr. McHolm added, he is impacted by either scenario, except for the gain of more natural light with a lower massing. Questioned by Mr. Beasley about their preferences, Mr. McHolm said he believed Space residents would not be opposed to a two-tower scheme which retains the Liberty Building.

In response to a question from Mr. MacGregor, Ms. Molaro confirmed the density of the Space site is 5.16 FSR. It was originally approved at 5.0 FSR, with subsequent small increases as a result of heritage density transfers required to resolve FSR issues.

Mike Kenyon provided a PowerPoint presentation showing alternative 5.0 FSR options for the site. He said all the residents of Space have been kept informed and have been urged to express their opinions, whether for or against the proposal. He noted there is no incentive for the applicant to present a lower density scheme which decreases profitability, and he expressed concern that the community has been consulted too late in the process. He was also concerned that there has been more focus on view impacts than on privacy, particularly for the loft units which are more severely impacted. He said the single tower proposal is overwhelming and suggested it should be 20 ft. lower and with a wider podium. He did not support concessions to the developer for retaining the Liberty Building.

In response to a question from Mr. Beasley, Mr. Kenyon advised his suggested alternatives are his own and have not been shared with other residents. He confirmed that the most significant concern relates to the face-to-face relationship between the two buildings.

In response to a question from Mr. MacGregor, Ms. Molaro confirmed the property comprises two sites with a single-site covenant and it meets the guideline with respect to floor plates relative to site size. In discussion, Mr. Patillo advised that Cressey owns both sites.

Sharon Promislow, Space resident, distributed copies of her presentation. In summary, she urged the Board to reject the one tower proposal and said a two tower or lower massed alternative would serve the city and the neighbourhood best.

Mr. Beasley sought Ms. Promislow's response to Mr. Kenyon's suggested two-tower scheme with a taller, slimmer tower to the north. She said she believes it is worth considering to free up some of the southerly exposure and view down Burnaby Street.

Barry Promislow noted that in one of the study sessions, the architect clearly stated that while the single tower scheme might not be best for the community it is what the client wants. Mr. Promislow acknowledged that circumstances have made this a very difficult site but noted the 5.0 FSR is a maximum, not a minimum. He said downtown is becoming overbuilt and it is

important for the City to consider, at this stage, what has been created and what is being created. This is an opportunity to stop. The Emery Barnes Park was created for all the residents and should not be compromised. Mr. Promislow said there will also be a tunnel effect on Seymour at the bridge exit. He said the two-tower scheme is a good compromise.

Jay Wroblewski, resident of a double height townhouse on Seymour Street, said he accepts that whatever is built will shadow his property. However, he is quite concerned with the physical presence of the building on what is the gateway to the downtown. Mr. Wroblewski questioned the merit of preserving the Liberty Building and suggested it would be more practical to maintain only its façade and incorporate a more efficient interior into a new development. He did not believe it would lose its integrity. Mr. Wroblewski thought the base of the building should be increased in size because it would lessen the psychological affect of a large tower.

Peter White, resident on the east side of Space and Chair of the Strata Council, said the proposal is not good for Space and is not reasonable. The revised submission is no different than the original proposal the Board asked to be reconsidered. He said the massing of the podium should be increased, whether it is a one tower or two tower scheme.

Michael Wicks stressed that Space is a community and all the residents are affected, regardless of whether they are directly impacted. Mr. Wicks recommended that the City give Seymour Place to the developer to relocate the facility to the Liberty Building location, removing the Liberty and locating the new tower on the Seymour Place site.

*Board and Panel members took a few minutes to review the model and posted drawings.*

#### **Panel Opinion**

Ms. Leduc thanked the delegations for their input and said it is a complicated project. She questioned whether anything significant had come back since the earlier submission. With respect to the Liberty Building, Ms. Leduc recommended either preserving it completely or tearing it down because "facadism" does not work for heritage preservation. Her recommendation would be to preserve the building. Ms. Leduc said she believes there are too many high towers in the neighbourhood. She recommended two lower towers for this site as a more appropriate transition from Yaletown to the Granville Street area. With respect to impacts, Ms. Leduc said she believed privacy is more important than views.

Mr. Lyon noted the Urban Design Panel reviewed this project on August 20, 2003 and has not seen it again since the Board's deferral in September. The Panel unanimously supported a single tower scheme for this site, following the applicant's description of all the other options that were considered. The Panel did have some concern about privacy and overview between the towers but thought they could be dealt with, possibly with an asymmetrical presentation of the tower to Seymour Street. The Panel strongly supported retention of the Liberty Building in its entirety. Mr. Lyon said he did not believe a façade retention would be a successful for this building. The Panel's comments were consistent with the conditions recommended by staff in Appendix A, for a further revised single tower scheme. Questioned by the Chair regarding his personal opinion, Mr. Lyon said he believes there is probably a single tower scheme that could work in this general location that has not yet been presented, perhaps with more density in the base. Alternatively, a two-tower scheme that retains the Liberty Building.

Mr. Chung recommended a single, slim tower. He said it is important to retain the Liberty Building, not as a façade. He did not believe two towers would be appropriate because of the impact on Seymour Place and on units in the two towers. He supported the revisions made by

the applicant and recommended further massaging to mitigate privacy impacts and shadowing on the park.

Mr. Durning supported a two-tower scheme because it provides the most balance and has the least impact on the neighbourhood. He congratulated the Space residents for their relatively objective presentation. Mr. Durning suggested the Liberty Building may have to be sacrificed, given that facadism does not work.

Mr. Henschel said that after reviewing all the material he believes the revised single tower scheme, with further revisions as recommended by the Staff Committee, would have the least impact, not only on Space but also the other adjacent buildings. A two-tower solution would have a major impact on Seymour Place in particular. He stressed that tall, slim towers in general have less impact on views and shadowing. Mr. Henschel said the Liberty Building, especially because it is at an intersection, is important to keep. He agreed that retaining the façade is not a good option. In summary, he said he supports the further revised single tower because it provides oblique angles of impact rather than face-to-face impact.

#### **Board Discussion**

Mr. Rudberg said he believes the Liberty Building can only be retained with a single tower scheme. A single tower scheme also minimizes impacts on Seymour Place. He acknowledged the high quality of the presentations from the Space residents and he agreed that privacy is a major consideration for this site. However, he said he felt that the quantitative analysis of a further revised scheme supports a single tower solution. Mr. Rudberg said he was also guided in particular by the advice of the Urban Design Panel, the Advisory Panel, by staff, and by the other three neighbours who have supported a single tower scheme. He said the further revised scheme does represent the direction he was seeking at the earlier consideration of this application. As well, the design has evolved sufficiently that consideration of a complete development application by the Director of Planning would be appropriate.

Mr. Beasley was unable to support Mr. Rudberg's motion of approval in principle. He commented that the interlude since the deferral has been very helpful and the applicant's analysis is excellent. He added he also believed the analysis provided by the Space residents has been among the best he has ever seen, as was their communication. He agreed that an optimal solution that balances a variety of interests should be sought. Mr. Beasley said he was concerned about two overwhelming public interests: to protect the view corridor and to minimize the impact on the park. He noted this is one of the few parks in this community which is underserved by parks. He said he believes there are ways, with a slimmer tower, to help to minimize the impacts over what was presented previously, but that a smaller family of buildings would have fewer impacts on the park. A smaller family of buildings would also fit better in the urban design of the buildings all around.

Whatever occurs, Mr. Beasley said he believes there should be an 80 ft. separation from Seymour Place. He noted the Granville Block is greater than 90 ft. away and most of its units would be affected in some way by even by a 70 ft., 3.0 FSR development on this site. Therefore, any lowering of the massing would be a net benefit to the Granville Block, and a two-tower scheme would have a net benefit over what it might get with several smaller developments at 3.0 FSR and 70 ft. 600 Drake Street has very few units that are affected one way or the other since it is oriented differently. It is therefore possible to put a smaller building mass at that end of the property. It is also possible to slim the taller of the two buildings, and to make the shorter of the two slightly wider and more like a lower scale,

traditional slab building, and still keep a good separation between the buildings for the residents in Space to enjoy views through to the west.

Mr. Beasley said he would like to see the Liberty Building preserved, but would accept its loss if it achieved a generally more properly scaled set of buildings. He did not share the opinion that facadism does not work. There are both successful and unsuccessful examples of façade retention. In summary, Mr. Beasley said he believes that, by and large, a smaller family of buildings preserves the public agenda best of all. It is also respectful to accept the assessment of people who are being impacted. He added he did not believe any party was right or wrong in this process and he commended everyone for trying hard and working positively. Given the level of controversy generated by this application, Mr. Beasley said he believes the complete application should come back to the Board.

Mr. MacGregor said he was satisfied with the new material presented by the applicant since the deferral and the issues, both pro and con, have been canvassed completely. He commended staff for the analysis. In response to an earlier remark from a delegation that the City is facilitating the maximization of developers' profits, Mr. MacGregor stressed that the Board considers and is guided in its decisions by the by-laws and guidelines. He noted the proposed density is identical to the density achieved on the Space site. Mr. MacGregor said he was prepared to trade off the Liberty Building if the best solution was a two-tower scheme. He did not believe façade retention would be very helpful. Tower separation is an important consideration, as is the use of the floor area in buildings, and he noted the recommended conditions of approval in principle include ways of dealing with privacy issues. In considering all the public issues, Mr. MacGregor said he believes that, on balance, a single tower scheme is the best solution, and to further massage it as recommended by staff. He fully supported all the recommended conditions as a means of improving the tower.

#### **Motion**

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

THAT the Board APPROVE IN PRINCIPLE Development Application No. 407723, in accordance with Appendix A of the memorandum from the Development Permit Staff Committee Report dated November 26, 2003, with the following amendments:

Amend 2.0 to add reference also to Appendix B of the September 17, 2003 Development Permit Staff Committee Report;

Amend 3.0 that the complete application be dealt with by the Director of Planning on behalf of the Development Permit Board;

Amend B.1.2 to extend the date for submission of a complete application to April 7, 2004.

CARRIED  
(Mr. Beasley opposed)



4. 901 MAINLAND STREET - DE407235 - ZONE DD  
(COMPLETE AFTER PRELIMINARY)

Applicant: Buttjes Architecture Inc.

Request: To construct a multiple dwelling development containing three towers (34-, 32-, and 30-storeys) with a three- to seven-storey base (six-storey plus brise-soleil) that includes 23 townhouses (for a total of 880 dwelling units), 2,500 sq. ft. of retail space in two units, and three levels of underground parking for 965 vehicles (153 public parking spaces and 812 project-related parking spaces). Also included is a public park at the corner of Mainland and Nelson Streets over the underground parking garage. The application seeks the maximum floor area permitted in the DD Downtown District and additionally requests 22,780 sq. ft. of density from the City's Heritage Density Bank.

**Development Planner's Opening Comments**

The Development Planner, Jonathan Barrett, presented this application which was approved in principle by the Board on April 14, 2003. The preliminary submission defined the overall uses and built form. The proposal is for three residential towers with a public right-of-way through the middle of the site, and a public park at the corner of Mainland and Nelson Streets. The design of the park, the cost of which is to be shared between the developer and the City, is being finalized with the Park Board. The underground parking under the park includes a component of public parking to be conveyed to the City. Mr. Barrett briefly reviewed the conditions applied by the Board at the preliminary stage and noted there have been no significant changes to the scheme since that time. The conditions have largely been met, with the exception of the requirement to provide a stronger Yaletown character which is repeated in the recommended conditions of final approval. Referring to the Staff Committee Report dated November 12, 2003, Mr. Barrett noted a correction on p.8, under Applicable By-laws and Guidelines, where the reference to tower floor plates of 6,000 sq.ft. should be 6,500 sq.ft. (maximum).

The most significant change since the preliminary stage is the inclusion of an additional 57,000 sq.ft. of floor area (10 percent increase) which includes 42,000 sq.ft. of purchased heritage density. The remainder is square footage that was left on Lot 57 which was not achieved at the preliminary stage. A major portion of the additional 57,000 sq.ft. has been included in the townhouse base along Homer, Smithe and Mainland Streets which has been increased by one storey. As well, an additional storey has been added to each of the three towers. However, the heights of two of the towers have decreased by the elimination of double height space at the lower levels. Tower A increased in height by 3 - 4 ft. This is not supported by staff, and condition 1.1 calls for lowering the height to that approved at the preliminary stage. The number of dwelling units has increased and the unit sizes have decreased.

In summary, the Staff Committee recommendation is for approval of the application, subject to the conditions contained in the report. Mr. Barrett tabled further amendments to the conditions (A.1.35 and A.2.2).

**Questions/Discussion**

Mr. Beasley questioned the location of the garbage storage beside the loading dock and suggested its final design and location should be in consultation with the adjacent owners. Bruno Wall, Developer, agreed to pursue the matter.

With respect to the park, Mr. Beasley noted the access to the loading docks for the existing historic buildings, while paved like the square, seems to be quite separated from the balance of the square and treated more like a street. Mike Thomson, City Surveyor, explained the intent is to ensure the safe separation of vehicular and pedestrian traffic, particularly for pedestrians coming off the central walkway. He noted there are liability issues relating to bollards and the preference is for a curb and gutter solution. The separation also ensures the Street and Traffic By-law can be enforced. Mr. Beasley commented that this may significantly moderate the ability for the square to work on all sides.

Mr. Beasley asked staff to remind him of the rationale for the park location, noting a continuing demand from the community to relocate the square to the northeast corner of the site. Mr. Scobie advised he did not believe this to be an issue before the Board today since it formed part of the Board's approval in principle of the preliminary submission. Mr. Barrett explained the corner of Mainland and Nelson was chosen because it is the most sunny aspect of the whole site and will not be shadowed in the future given its adjacency to Yaletown and that the low Showmart building is also expected to remain for the long term. Secondly, there was a strong desire to combine the park with the lane to make it a much more generous space than it otherwise would be. It is also seen as being complementary to Curtis Plaza at the other end of Yaletown, and well located in relation to existing and planned parks in the area. Mr. Barrett noted the park location has been approved by the Park Board and City Council who would need to review any proposal to change it.

Mr. Rudberg sought clarification regarding the operation of the mid-block public walkway. Mr. Barrett advised the proposal now is for it to be open 24 hours a day but the City would consider its closure at night if requested by the Strata Councils. In further discussion regarding the walkway, Mr. Scobie suggested some clarification should be provided in condition A.2.11 with respect to its hours of operation.

In response to a question from Mr. Beasley regarding the additional 3 - 4 ft. height of Tower A, Mr. Barrett said the impact would be increased shadowing and minimal view impact on the neighbouring building. While the urban design impact is very little, the Staff Committee was concerned about adding height to a scheme that had been approved in principle.

**Applicant's Comments**

Mr. Wall advised that 42,000 sq.ft. of heritage density is being purchased from the Christ Church Cathedral site and said the amount would be reduced by about 6,000 sq.ft. if the Board requires the height of Tower A to be lowered. Mr. Wall said he had no concerns with the recommended amendments to the conditions.

Dirk Buttjes, Architect, briefly reviewed the revisions made to the scheme since the preliminary stage. The Landscape Architect, Jane Durante, reviewed the landscape plan. She noted there is a desire on the part of the Park Board to have a park that is quite different, which has resulted in the current hard surface proposal.

**Questions/Discussion**

Mr. Rudberg sought clarification regarding public access and use of the docks. Mr. Wall explained the docks will continue to be owned by the City. Mr. Thomson added, the owners of the existing heritage buildings currently have no rights with respect to the docks. However, once this development is complete and the dock portion of Lot 57 becomes a City road, the docks will become subject to the Encroachment By-law and agreements with the property owners will be sought.

In response to a question from Mr. MacGregor concerning condition 1.1, Mr. Wall said the impact of the additional height would be minimal and they would prefer to maintain the height as proposed. In response to a further question from Mr. Beasley, Mr. Wall confirmed they would purchase 6,000 sq.ft. less heritage density if they are required to reduce the height.

Mr. MacGregor expressed concern that the condition to require the park design to be completed as part of this development permit approval may be premature. Mr. Thomson advised a design for the park is complete in principle, with only minor refinements remaining, and the Park Board wishes to ensure that what they have already promised Council is deliverable. While he appreciated Mr. MacGregor's concern, Mr. Thomson said he did not believe it would be a challenge to meet the condition.

In response to a question from Mr. Scobie, Mr. Wall advised the intent is to have three strata corporations and an air space parcel agreement with respect to use of the guest suite and children's play area by all the residents.

**Comments from other Speakers**

Andy Gohil, Vice President of the Strata Council of 888 Hamilton Street, read a letter from a neighbour who wished to remain anonymous, expressing concern about the impact of six years of construction from this development and requesting that the park be relocated to the corner of Smithe and Hamilton Streets.

The Chair pointed out that the park location was decided at the preliminary stage and Board does not re-visit decisions made at the preliminary application stage or re-assess the original decision. The Board is now considering how the applicant has responded to the conditions set by the Board when it granted approval in principle. Nevertheless, Mr. Gohil urged the Board to review the matter further and, if necessary, re-assess its initial decision. Mr. Beasley stressed that he wished to hear any public delegations. Mr. Scobie confirmed that all members of the public will be heard, provided it is understood the Board will not re-visit its earlier decision.

Mr. Gohil then made his own presentation outlining the residents' concerns about this development, including disruption during the construction period and the rationale for the location of the park. He urged the Board to consider their concerns.

Mercedes Wong, Director of Yaletown Business Improvement Association, said the BIA is in support of the proposal. It presents a significant addition to the skyline and will contribute to showcase the city during the 2010 Olympics. The BIA also strongly supports the public parking component of the scheme.

**Questions/Discussion**

In response to a question from Mr. Beasley regarding the concerns expressed about construction noise, Mr. Thomson noted that condition A.2.14 requires a construction management plan which deals with such things as the movement of materials and street closures to ensure

pedestrian access. Mr. Rudberg added a major development such as this is reviewed aggressively. As well, most of the timing of construction is guided by the Noise By-law which is administered by Environmental Health. Mr. Wall advised the management plan is not yet finalized but they believe most of the construction staging areas can be accommodated on-site which will limit disruption to the neighbours. He agreed they would also assist with the cost of window washing for the neighbours during the construction period.

#### Panel Opinion

Mr. Lyon advised the Urban Design Panel supported this application and noted the general form of the development had been supported at the preliminary stage. Mr. Lyon confirmed that the Panel's concerns are addressed appropriately in the recommended prior-to conditions. With respect to the public right-of-way, Mr. Lyon said the Panel believed it should be a generous space and supported the landscape architect's proposal to deal with the Panel's concerns about the treatment of the south end.

Mr. Chung recommended approval with the height as proposed and said the development will be a good addition to the city skyline. He strongly supported condition 1.2 which calls for a stronger Yaletown character.

Mr. Durning also recommended approval and said it will be a good development.

Mr. Henschel expressed concern that the public walkway will be closed by the Strata Councils. He urged that it is made clear that the City will "consider" closing it at their request, after a reasonable period to assess how it works. Mr. Henschel had no problem with the slight height increase in Tower A. He also supported the location of the park. However, he was concerned that the character of the park had changed since the preliminary stage and lost significant value. He urged that it be a green space and suggested the current proposal will encourage skateboarding in the park.

Some discussion took place with respect to the park design. Mr. Barrett advised the park proposal has gone through a very lengthy design process with the Park Board planners and the applicant's landscape architect. The park was greener at the preliminary stage but the Park Board now strongly supports the concept for a more urban park. Mr. Barrett added the proposed surface treatment will inhibit skateboarding. In response to a question from Mr. Rudberg, Mr. Barrett confirmed the park is part of the development permit for this whole development. In discussion, Mr. Scobie pointed out that the City has a long standing arrangement with the Park Board that the Park Board does not require development permits for park improvements, except when physical structures are included. He suggested therefore that the Park Board could change the nature of the park at some time in the future, without seeking City approval. He suggested the recommended condition is an attempt to ensure that there is some timing obligation to secure the intended park design before the permit for the balance of the site is issued. Mr. Beasley agreed this is true for a dedicated park but he noted there is nothing to indicate that this park will necessarily be in the care and custody of the Park Board, noting there are many other public spaces that are not in the care and custody of the Park Board. At this time, the Board can add a condition for further refinement if it so chooses. Mr. Scobie agreed that, at the time of permit issuance it is not contemplated that the park will exist as a legal entity and will therefore not be in the Park Board's control. Ms. Durante added they have had lengthy discussions with the Park Board to reach the current design in order to start consolidating the arrangement between the developer and the Park Board. She noted the recommended conditions of approval go way beyond a preliminary park

design. Mr. MacGregor said he was not concerned so much about the park design but to ensure that the development process is not frustrated.

#### **Board Discussion**

Mr. Beasley thanked Mr. Gohil for his presentation. He commented that notwithstanding the preliminary development permit approval, he did not believe it was beyond his role on the Board to recommend a change of mind if there was a compelling reason to do so. However, he said he did not believe there was a compelling reason to change the decision. The original logic for the location of the park, for a variety of reasons, remains. Therefore, while he appreciated the comments, the basic arrangement approved at the preliminary stage was correct. In moving approval, Mr. Beasley stressed that this is a very complex project and a very good one at this stage, noting the base of the development has been improved dramatically. The massing of Tower C to reflect the Yaletown scale and to include the docks and have the retail on that frontage is very positive. He supported the condition to further refine the materiality of Tower C. With respect to the park, Mr. Beasley said he had no hesitation to approve the square in the design as presented, with some minor revisions. He said he did not support a suburban green park in this location. Mr. Beasley said he also supported further refinement to differentiate the towers. With respect to the height, he said while he understood the staff position, he did not see a compelling urban design reason for reducing the height. What is of concern is whether a site can take some heritage density without any negative impact on urban design.

Mr. Rudberg said he appreciated the advice of the Urban Design Panel with regard to the public walkway and noted the applicant is improving the design to create a more inviting, workable connection. He recommended a Note to Applicant in A.2.11, which Mr. Beasley accepted as an amendment to his motion. He said if there are legitimate public safety issues they would be considered, but the intent is that it remains open at all times. Mr. Rudberg said he had some concerns about getting too involved in the design the park. He noted that Curtis Plaza is a public plaza under the control of the City and a difficulty with the hard surface is that it quickly turns green. He said he hoped that this park, in a sunnier location, will create a better environment for the hard surfaces being contemplated in the design.

Mr. Beasley added he was concerned about the multiple ownership of the walkway and hoped it will be kept simple. He also acknowledged the developer's offer to assist the neighbours with window washing during construction. Mr. Rudberg added it is also good practice to consult the neighbours with respect to the construction plans so that their specific concerns can be mitigated.

#### **Motion**

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

THAT the Board APPROVE Development Application No. 407235, in accordance with the memorandum from the Development Permit Staff Committee Report dated November 12, 2003, with the following amendments:

Delete 1.1 and re-number 1.2 to 1.1;

Add 1.2:

that the location and design of garbage facilities adjacent to the historic loading docks be finalized in liaison with the owners of those docks;

**Add 1.3:**

that the Director of Planning, General Manager of Parks and Recreation and the General Manager of Engineering Services, in consultation with the applicant, give further consideration to the final design of the west edge of the park to integrate all aspects into one coherent open space, but having regard for safety, liability and traffic management;

**Amend A.1.26 to read:**

provide a comprehensive security report by a licensed security professional having particular regard for separation between residential, retail and public parking users including exit stairs and elevator lobbies

**Amend A.1.35 to read:**

arrangements to the satisfaction of the Director of Legal Services, General Manager of Engineering Services and General Manager of Parks and Recreation, for an agreement to ensure delivery of the public park;

**Note to Applicant:** The preliminary park design to be completed as part of this Development Permit approval. The agreement will require the construction and furnishing of the park prior to occupancy of Tower B and will also ensure an interim park treatment, at the cost of the developer, prior to occupancy of Tower A if Tower B is not proceeding.

**Amend A.2.2:**

arrangements to the satisfaction of the Director of legal Services, the General Manager of Engineering Services and the General Manager of Parks and Recreation, for the conveyance to the City of separate air space parcels for each of the park and the public parking;

**Note to Applicant:** The parcels will be defined prior to occupancy of the first building and conveyed upon completion of the works.

**Add a Note to Applicant in A.2.11:**

In any event, public access shall not be limited between the hours of 6.00 a.m. and 10.00 p.m. and closure between 10.00 pm and 6.00 a.m. shall be subject to agreement by the General Manager of Engineering Services.

Amend the last word of B.2.4 to read "buildings".

CARRIED UNANIMOUSLY

Mr. Scobie stated that the Board is not empowered to reconsider decisions made in preliminary applications. The preliminary development application process is a means of providing security to applicants, by virtue of the approval that is given, to allow them to then proceed with confidence in investing their time and money in preparation of a complete application, which is why it may be the subject of a Board of Variance appeal. He suggested the City would be at risk if the Board began to reconsider decisions on preliminary applications.

5. OTHER BUSINESS

None.

There being no further business, the meeting adjourned at 9.35 pm.

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C. Hubbard  
Clerk to the Board

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F. Scobie  
Chair