

Date: Monday, July 8, 2002  
Time: 3.00 p.m.  
Place: Committee Room No. 1, City Hall

**PRESENT:****Board**

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

**Advisory Panel**

W. Franci Representative of the Design Professions (Urban Design Panel)  
J. Hancock Representative of the Design Professions  
P. Kavanagh Representative of Development Industry  
J. Ross Representative of Development Industry  
D. Chung Representative of General Public  
M. Mortensen Representative of General Public  
R. Bruce Scott Representative of General Public

**Regrets**

J. Leduc Representative of General Public

**ALSO PRESENT:**

S. Hein Development Planner  
J. Barrett Development Planner  
L. Schmidt Project Facilitator  
M. Thomson City Surveyor  
P. Pinsker Parking and Development Engineer

**Item 3 - 1280 Richards Street - DE406694 - Zone DD**

C. Brook Brook Development Planning Inc.  
J. Schouw Architect  
P. Merrick Architect

**Item 4 - 900 Beatty Street - DE406606 - Zone CD-1**

L. Doyle Lawrence Doyle Architect Inc.  
D. Negrin Concord Pacific Group Inc.  
W. Harrison Landscape Architect  
J. Cheng James K.M. Cheng Architect Inc.

Clerk to the Board: C. Hubbard

**1. MINUTES**

The following amendments were requested:

p.3 under **Questions/Discussion**, to add: "A concern was raised about the size of the floorplate which was challenging the guideline recommended maximum. The Development Planner demonstrated that the increase in floorplate represented very small slivers which caused no increased impact";

p.4, under **Panel Opinion**, to amend Mr. Kavanagh's comment to add "and compelling";

p.7, penultimate sentence under **Applicant's Comments**, to add "road" before "right-of-way";

p.9, under **Panel Opinion**, to amend the last sentence of the first paragraph to read: "He thought umbrellas would be the best sign of "occupied territory".

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

THAT the Minutes of the Development Permit Board and Advisory Panel Meeting of June 24, 2002 be approved as amended.

## 2. BUSINESS ARISING FROM THE MINUTES

None.

The Chair noted there were only three members of the Board present. The Board normally comprises three voting members and the Chair who is non-voting. Because one of the Board members and his Council-appointed alternate are both unavailable to attend today's meeting, there was a recent amendment made to the Development Permit Board & Advisory Panel By-law which enables the Board to proceed with two voting members. The Chair will vote if the two other members do not reach agreement.

## 3. 1280 RICHARDS STREET - DE406694 - ZONE DD (PRELIMINARY APPLICATION)

Applicant: Brook Development Planning Inc.

Request: To construct a 27-storey multiple dwelling building and a four- to six-storey townhouse podium (77 units) with three levels of underground parking accessed from the lane as an addition to a previously-approved multiple dwelling building under construction (499 Drake Street).

### Development Planner's Opening Comments

The Development Planner, Scot Hein, presented this application. An earlier application for this site was approved in principle by the Board, under DE406223, on February 4, 2002. This approval was subsequently overturned by the Board of Variance on April 10, 2002. The Board of Variance had a particular concern about the advanced state of construction of the corner component which had led to an expectation by some recent purchasers in the Metropolis building (1238 Richards Street) that the neighbouring site could not be developed beyond 3.0 FSR and 70 ft. high. The owner has now been able to acquire the site immediately to the north, thereby increasing the Richards Street frontage to 237.5 ft. which qualifies the site for an FSR of 5.0 and a height of 300 ft. In their original analysis, staff concluded the site could be considered as presented. Mr. Hein stressed that the Staff Committee remains convinced that the site does qualify in terms of its frontage and site area, subject to consolidation, to be considered for 5.0 FSR and 300 ft.

Mr. Hein briefly reviewed the site context, noting that development of the Downtown South neighbourhood is now well advanced and is building out with two towers per block, as anticipated in the zoning, with 80 ft.

minimum separation between towers. The Metropolis site, completed in 1998, had to accommodate the heritage Canadian Linen building at the corner of Richards and Drake Streets, as a result of which the Metropolis tower is sited further south than might have been contemplated had the heritage resource not been considered as part of that application. This applicant's original site at the corner of Richards and Drake Streets was approved for development in August 2000, by which time the Metropolis was fully occupied.

The Development Planner referred to the technical analysis in the Staff Committee Report, noting an amendment to the **Note on Rear Yard and Setback** to delete reference to a relaxation. Staff support the rear yard setback for the podium noting the acceptance of the existing as-built condition for the Phase 1 component. This complies with Section 4.2.3 (c) of the guidelines which calls for corner streetwall massing to extend to the lane.

Mr. Hein reiterated that, in anticipation of site consolidation, staff confirm the site meets the frontage and site area requirements to be considered for the requested height and density, provided the proposal meets the urban design criteria inherent in the guidelines. Staff have identified four areas of improvement with the subject application over the previous scheme: repositioning of the tower to achieve a separation of 112 ft. from the Metropolis; improved massing transition to the Canadian Linen building; improved architectural expression and quality; and further view improvement for neighbouring buildings.

Mr. Hein briefly reviewed the recommended conditions, noting the Staff Committee was very supportive of the proposal. In considering the application, Staff Committee was well aware of some ongoing concerns with residents of the Metropolis. Staff believe the subject application exceeds the performance of the previous scheme and recommend approval in principle, subject to the conditions outlined in the Staff Committee Report dated June 12, 2002.

#### Questions/Discussion

The Chair raised a question about the proposed floor-to-floor heights which exceed the guideline recommendation, noting the application is also seeking a height relaxation. Mr. Hein noted that typical podium developments in Downtown South generally seek to maximize floor-to-floor heights in order to achieve the streetwall height called for in the guidelines. In this instance, the podium is already at 70 ft. and meets the intent of the guideline in terms of streetwall presence. The minor height relaxation being sought for the tower is supported by staff because it relates to concealment of the elevator override and shaping the tower cap.

At the request of the Chair, the Development Planner described how Downtown South has been developed in terms of tower locations and the "chequerboard" pattern that has resulted from the guidelines to achieve separation for privacy and views. There are generally two towers per block, with offsets which contemplate existing and future development in the positioning of the towers. In this case, the Metropolis tower had to be shifted to the south to accommodate the Canadian Linen building, which resulted in locating the subject tower further south. While *locating the tower as far south as possible would be preferred by the Metropolis residents*, ~~this is strongly supported by the neighbours~~, consideration also must be given to view and privacy impacts on the Concert Properties tower at 1295 Richards Street (under construction).

In response to a question from the Chair regarding the clearance requirements for access to the underground parking, Mike Thomson, City Surveyor, explained the concern was that the entrance to the underground parking is already under construction (as part of the previously approved component at Drake/Richards). At that time of approval of this component, the height clearance requirement of 2.3 m for disability parking was not in place. However, the clearance of the portion now under construction is 2.2 m, which staff believe is supportable. The new portion of the underground parking will comply with the 2.3 m height clearance requirement.

Referring to the condition calling for a children's play area (A.1.13), the Chair recommended that confirmation be sought that non-toxic plant material will be installed.

Noting the accepted minimum tower spacing in Downtown South is 80 ft., Mr. Beasley sought clarification as to how this proposal performs in relation to the two closest buildings. Mr. Hein advised the tower is 112 ft. from the Metropolis and 90 ft. from the Concert Properties tower at 1295 Richards Street. In response to a question from Mr. Rudberg, Mr. Hein advised the average separation that will be achieved when Downtown South is fully built out will be approximately 112 ft.

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

In response to some of the issues raised in the Development Planner's presentation, Chuck Brook, Brook Development Planning, advised they are prepared to work with an average floor-to-floor height of 10 ft. to comply with the guidelines. Regarding the height clearance to the parking access, Mr. Brook advised they can meet the 2.3 m requirement.

In response to a request from Mr. Brook that they be permitted to make further presentation to the Board after hearing from members of the public, Board members indicated they would prefer to hear the applicant's complete presentation at this stage of the proceedings, in accordance with the Board's normal procedures.

Mr. Brook noted that this site, in terms of the zoning and guidelines and its physical dimensions, is no different than any other Downtown South site of a similar size and location. Furthermore, the Downtown South zoning and guidelines encourage the consolidation of properties in order to facilitate high density residential development. Mr. Brook also observed that the proposed tower is the very slimmest of all towers, built or proposed, in Downtown South. It performs extremely well against the zoning and guideline criteria, both in terms of tower separation and view obstruction.

Paul Merrick, Architect, stressed that this is a preliminary application and as such the issues raised by staff are all entirely appropriate and well taken. He briefly reviewed the major conditions and explained how they intend to respond. He commented that a far bulkier building than this proposal can be accomplished under the guidelines and this is an unusual opportunity to respond in this way. In terms of the lower level roofscape relationship to the Metropolis, Mr. Merrick noted considerable improvement has been achieved over the previous application both in terms of physical presence and light penetration. James Schouw, Architect, confirmed they will meet the required floor-to-floor height, to a 10 ft. maximum average. He also confirmed they will not be seeking a relaxation for the overall height of the tower, and that they can meet the clearance requirements for the parking entry.

#### **Comments from Other Speakers**

Jonathan Baker, lawyer representing Metropolis residents, submitted that this application is an appeal of a decision of the Board of Variance, which is not permitted under the Vancouver Charter. The Board of Variance was never concerned with any of the design issues. The only issue was site planning. In this case, the developer first assembled the portion of the block to the south, choosing at that point to proceed with what was permitted for a site of that size. The developer subsequently acquired the adjacent property, between his original site and the Metropolis, creating a site large enough for the current proposal. However, Mr. Baker contended that this is an evasion of statute because it achieves only technical compliance. While staff maintain that the tower is in the same location as would have been recommended if the whole site was empty, this can never be proven, noting that staff are constrained by the reality of part of the site being already under construction. Mr. Baker stated that the procedure being followed does little for the confidence of the public, noting that some of the Metropolis owners sought advice from City Hall as to what could be developed on the adjacent site and they were informed the site was not big enough for a tower. Further, the public should expect that a decision of the Board of Variance is final. Mr. Baker contended the Development Permit Board does not have jurisdiction because the issue before the Board of Variance remains the same, namely, that the site was assembled for the purpose of technical compliance only.

Amy Sept, 1238 Richards Street (the Metropolis), also spoke on behalf of 117 Downtown South residents who signed a petition in opposition to the application. The petition was circulated to Board and Panel members. Ms. Sept said they believe the subject proposal is essentially the same as the previous application, the approval of which was subsequently quashed by the Board of Variance. She said they appreciate the modifications that have been made to the scheme and while the siting does exceed the 80 ft. minimum separation, the tower is not offset from the Metropolis. It will have a huge impact on privacy to surrounding towers, particularly the Metropolis and The Space (1238 Seymour Street). Ms. Sept stressed that privacy is a major concern for residents of loft units which have floor-to-ceiling windows. In general, the proposed tower will negatively impact their quality of life and ultimately their resale and property values. She noted that members of the Development Permit Board chose not to accept the invitation that was sent on June 24, 2002, to view a number of representative lofts in the Metropolis to allow a better understanding of the impact. Ms. Sept reiterated a question that was posed at the February 4, 2002 Development Permit Board meeting, namely, why are the two applications for 1280 Richards and 499 Drake Streets being considered as one? She questioned how a separate application for a 70 ft. development, approved in August 2000, can now become phase one of a two-part 317 ft. high development, given that any other developer would be permitted only a 3.0 FSR, 70 ft. high development.

Ms. Sept noted that some Metropolis owners were told by City staff that with the approval of 499 Drake there was simply not enough room to build another tower on this block. Since the Board of Variance decision in April 2002, opposition to this development has grown and is not limited to Metropolis residents. The subject application is so similar to the previous one that it is a blatant attempt to circumvent the decision of the Board of Variance. The City's goals, policies and guidelines for Downtown South emphasize space and livability: crowding two massive towers is far removed from the City's recognized vision for this developing landmark neighbourhood. She urged that the application be rejected.

#### Questions/Discussion

In response to a question from Mr. Beasley, the Development Planner confirmed that this is a new application which is materially different from the previous proposal. Responding to a question from Mr. Rudberg as to whether a tower would be permitted on this site if it had been consolidated from the outset, Mr. Baker agreed it could contain a tower but they believe it would have been located at the extreme end of the block. In discussion, Mr. Hein advised that staff's analysis confirmed the appropriateness of the tower location and the Urban Design Panel concurred with this conclusion. Mr. Baker said he believes the subsequent consolidation of an already occupied site defeats the purpose of the by-law which allows for discretion in determining tower location. Mr. Beasley commented it is common in Downtown South for a site containing an existing building to be consolidated with another to create a larger site. He suggested this had happened on the Metropolis/Canadian Linen site. In discussion with respect to the development of the Metropolis site, Mr. Hein confirmed its density was set at 5.0 FSR, with a bonus provided beyond that in exchange for preservation of the heritage Canadian Linen building.

Ms. Sept pointed out that one of their issues is that they could not have known about this tower, and purchased their south-facing loft feeling that they had a good understanding of where neighbouring towers would be located. They would not have purchased their units if the possibility of a tower on this site had been apparent.

Responding to the question of jurisdiction, Mr. Scobie commented that it rests with the Development Permit Board to determine whether it is satisfied that this application is different from the previous proposal. If the Board grants approval in principle, it will then rest with the Board of Variance to determine whether or not a subsequent appeal is covering the same grounds that were previously considered.

#### Comments from Other Speakers (Continued)

Danny Yehia, 1238 Richards Street, spoke in opposition to the application and concurred with the comments made by Mr. Baker and Ms. Sept. He also read a statement of opposition from a neighbour, Pam Johnson.

Jason Anthony, 1245 Homer Street, was in support of the application which he said will improve the area.

Daniel Alexander, 1238 Richards Street, expressed concern about view obstruction.

Lee Anonuevo, 1238 Richards Street, was opposed to the application because of its impact on privacy.

Andrew Lam, 1238 Richards Street, expressed concern about the proximity of this proposal to the Metropolis. A recent purchaser of his unit, Mr. Lam said his understanding was that there would be a low rise building on the adjacent site now in question.

Randall Chong, 1238 Richards Street, said the proposed tower will eclipse their suites, causing a very negative impact on light access, especially in winter months.

Wayne Gilchrist, 1238 Richards Street, pointed out that tower proximity has far greater impact on loft units which have a very different configuration than typical apartments. He suggested the 80 ft. minimum tower separation is more appropriate for apartments. They are not as exposed as lofts which have 16 ft. floor to ceiling windows. He explained there was already something existing on the corner when he purchased his unit. As a result of this proposal, he feels angry and cheated by the City.

Board and Panel members reviewed the model and posted drawings.

#### Panel Opinion

Mr. Francl advised the Urban Design Panel unanimously supported this project and considered it merited the height and density proposed. The siting of the tower was supported by the Panel, with some questions raised about whether it should be located as far south as proposed. Mr. Francl said that, in his opinion, if this were a "blank slate" site, and given the neighbouring tower locations, this is probably about where the tower would be located. He noted the proposed tower presents a uniquely narrow facade to the Metropolis. The conditions recommended by staff address all the issues raised by the Panel. Mr. Francl recommended approval in principle.

Mr. Hancock said it is his understanding that this is a significantly different, new application that is appropriately reviewed by the Board. The reality in Downtown South is that the towers are all aligned in the north-south direction - they are only "chequerboard" in the east-west direction insofar as they are able to be so located. The positive aspects of this proposal are that the separation from neighbouring towers is greater than the guideline recommended minimum, and the tower floorplate is extremely small. Its overall impact is quite minimal and the design is also very interesting. Other sites have been assembled where towers are not ideally located, including the Metropolis which would probably have been located at the north end of the site had the Canadian Linen building not be preserved. He concurred with Mr. Francl that the tower is sited the same as if it were an empty site. Nevertheless, Mr. Hancock said he was a little troubled by the process in terms of the sequencing of the assembly of the site. If Metropolis residents purchased on the basis of misinformation provided by the City, then there is a procedural problem. Notwithstanding the procedural issue on which he felt unqualified to provide any advice, Mr. Hancock said it is a good project, in the right location. On that basis, he recommended approval.

Mr. Ross noted that a lot of work has occurred between the applicant team and Planning staff since the earlier proposal. This application is considerably superior, both in terms of its design and siting. Given the context of the towers around the site, Mr. Ross said he was confident this tower would not be located any further south if the site was empty. Mr. Ross said he was also very troubled by the comments of the public delegations with respect to difficulties that have occurred in the process. He urged that the situation be reviewed to ensure it does not occur again. While the separation from Metropolis is not satisfactory to those residents, it is better than the average for this area. The tower floorplate is substantially smaller than typically seen in Downtown South, and the design is very attractive. Mr. Ross said he supported the application subject to the conditions recommended in the report.

Mr. Kavanagh concurred with the comments made so far by other Advisory Panel members. He agreed it is a matter of concern if there is a problem with the procedure. On the other hand, this is an excellent proposal for a preliminary submission. He recommended approval subject to the conditions in the report. He recommended deletion of "and the tower entry" from condition 1.6. *This would permit passers by to have a glimpse of that enclave.*

Mr. Chung concurred with the previous comments and emphasized his concern that members of the public may have received misinformation from the City. He expressed the hope that procedures could be refined to avoid a repetition in the future. Otherwise, he said it is an excellent project.

Mr. Mortensen said the building is elegant and well planned and its slimness causes minimal view impacts. Commenting on the concerns expressed by the delegations, Mr. Mortensen said prospective purchasers seek some degree of certainty from the City as to what can be built in front of them. In this case, it was not possible to make an accurate prediction because conditions changed in terms of ownership, and there is always the potential that this situation can evolve. He recommended approval of the project, noting it is for the Board to decide whether it represents a new application.

Mr. Scott said he found it very disturbing that members of the public feel cheated by the City. However, treating this as a new application - which he considered is appropriate - has resulted in a better project. He recommended approval.

#### Board Discussion

Mr. Rudberg said the question of whether this is a new application is an issue for the Board of Variance to judge. Based on some of the significant changes that have been made since the previous application, Mr. Rudberg said he believes it is a new proposal. On the question of whether the proposal is good site planning and whether such a project would be considered on a blank site, Mr. Rudberg said he agreed with the advice of staff, the Urban Design Panel and some Advisory Panel members that this is probably the best location for the tower. Regarding design, Mr. Rudberg agreed it is an attractive proposal. There are issues about process and the advice that was given by the City. He noted that staff do the best they can with the information available at the time. However, conditions do change and there was a substantial change in this instance in terms of the site assembly. Based on all the information and the advice received, Mr. Rudberg recommended approval in principle with some amendments to the conditions. He said it is better than the previous proposal.

Mr. Beasley noted that two issues have been raised. As to whether this is a new application or an appeal of an appeal, he said the key is whether or not the application is materially different than the previous one. An applicant, even in a successful decision by the Board of Variance against a development, has the right to apply for some other development. He said he would agree with the public delegates if this application was the same as the previous one; however, it is different, particularly in response to some of the substantive issues that were discussed at the Board of Variance. On the question of whether this is one or two sites, Mr. Beasley said the situation is clear. He noted that the Development Permit Board commonly considers applications for assembled sites, always on condition that the site is consolidated. An applicant has the right to have an application considered if he is prepared to create a site that meets the parameters of the law, which is an important consideration. Certainly, without the condition of site consolidation, the maximum that would be allowed would be 70 ft. height and 3.0 FSR. Therefore, provided the condition for assembling the site is in place, it is one site, and whether it already contains some construction is immaterial. What must be considered is how the building performs vis-a-vis its neighbours. While moving the tower further south may be an improvement for the Metropolis, it decreases separation from other buildings. Mr. Beasley stated that his personal judgment is that the tower is located as it would be on a vacant site. Having assembled the site, the applicant does have the right to 5.0 FSR and a tower. Mr. Beasley added, he appreciated the delegates' comments about privacy and recommended an additional condition to address the issue, to which Mr. Rudberg concurred.

Mr. Beasley added, it is always difficult when prospective purchasers are unable to obtain certainty regarding the development potential of certain sites. The difficulty in this particular zone is that it is a discretionary zone where conditions change fairly dramatically with the change of site size. He agreed the City should find more and better ways to outline all scenarios in response to inquiries. In closing, Mr. Beasley said he agreed with the Urban Design Panel and the Advisory Panel that this is a very well designed building and will be a good neighbour if the conditions of approval are met.

Commenting on the issue of advice provided by the City, Mr. Scobie suggested that staff, knowing a development permit had been approved for 499 Drake Street, might reasonably expect that the likelihood of consolidation of the adjacent privately-owned property to create a larger site is fairly remote, particularly when the development for which the permit has been issued is actually under construction. However, it is only when staff have the breadth of knowledge and experience of not only what is likely but what is possible that all this information can be conveyed to the public. The challenge is to ensure that staff have the knowledge to make the analysis and convey it properly to the public. Mr. Scobie added, his concern is the absence in the Official Development Plan of any policy that speaks to "incremental development". He said he believes the absence of such a policy to preclude it, means that it is possible, and does not constrain the Board in dealing with the application. In closing, Mr. Scobie commented that privacy will increasingly become a reality for people who choose to live in lofts in high density areas like Downtown South. Residents will need to exhibit some degree of self control over their own environment to address the situation and to take it into account when purchasing these units.

#### Motion

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

THAT the Board APPROVE IN PRINCIPLE Development Application No. 406694, in accordance with the Development Permit Staff Committee Report dated June 12, 2002, with the following amendments:

Amend 1.6 to delete ", and the tower entry,";

Add 1.7:

design development to orient units away from direct north orientation and achieve as much privacy as possible between the building and the adjacent Metropolis building to the north;

Amend A.1.2 to delete "New" from the second sentence (two occurrences);

#### 4. 900 BEATTY STREET - DE406606 - ZONE CD-1 (COMPLETE APPLICATION)

Applicant: Lawrence Doyle Architect Inc.

Request: To construct a mixed-use building containing two residential towers, a 26-storey tower and a 32-storey tower, and 10 townhouse units for a total of 526 residential units. Included is 765 m<sup>2</sup> of commercial space fronting on Smithe Street and Expo Boulevard with 3-1/4 levels of underground parking accessed from Beatty Street.

#### Development Planner's Opening Comments

The Development Planner, Jonathan Barrett, presented this application and Board and Panel members assembled around the model for his description of the project. Although not part of this application, a non-market residential component is also identified in the scheme on an adjacent site to the southwest. Mr. Barrett briefly reviewed the relevant sections of the Quayside guidelines that apply to this site, noting that the original concept to include an escarpment at the corner of Expo Boulevard and Smithe Street has now been

discarded in favour of having more active residential and commercial entrances around the whole site. The issues identified by staff relate to the uses, character and scale of the lower level built form. The application was not supported by the Urban Design Panel. The applicant has since responded to the concerns raised by staff and the Panel. However, the Staff Committee did not support the application as a complete submission and recommended approval in principle only. Mr. Barrett briefly reviewed the recommended conditions outlined in the Staff Committee Report dated June 6, 2002.

#### Questions/Discussion

In response to questions from the Board regarding parking, Paul Pinsker, Parking and Development Engineer, explained the Costco site is obliged to provide 100 spaces as part of the Stadium Parking Reserve. However, consideration is being given to building these spaces in another acceptable location (in exchange for an additional 50 pay-in-lieu spaces on that site, 7B), and Engineering staff believe the subject site would be a good recipient site for these spaces. This site has the same parking standard as the Marinaside residential precinct; however, studies have shown that parking needs further away from the waterfront are less than for waterfront developments which have greater car ownership. Residential parking requirements in Yaletown Edge, for example, are lower. Staff therefore support the Yaletown Edge standard being applied to this site instead of the Marinaside standard. Mr. Pinsker confirmed that this suggested parking relaxation is not related to the possibility of locating the 100 stadium parking spaces on this site.

#### Applicant's Comments

David Negrin, Concord Pacific Group Inc., stressed that they consider the application to be a complete submission. He noted they have worked very closely with City staff to address the issues raised by the Urban Design Panel. The Chair of the UDP has reviewed and supported some of the revisions. The concerns related primarily to the lower portions of the development and James Cheng, Architect, has been engaged to address these issues. Mr. Negrin confirmed they fully support the conditions recommended by the Staff Committee. With respect to parking issues, Concord Pacific support this site accepting the 100 parking stalls from the Site 7B obligation. They also support Engineering's position that the parking standard might be reduced to the Yaletown standard. In summary, Mr. Negrin emphasized they will work towards resolving all the major issues identified in the report. They believe the submission is a high quality design. With respect to the retail component, Mr. Negrin added they believe it will be viable in terms of other development that is occurring in the area. He urged that the Board support the submission as a complete application.

Lawrence Doyle, Architect, confirmed they support all the recommendations in the report. He briefly explained how they intend to address some of the conditions. He also requested the Board to consider the application as a complete.

#### Questions/Discussion

In response to a question raised by Mr. Beasley with respect to process, Mr. Barrett confirmed that the application would be returned to the Urban Design Panel if it is approved as a preliminary. He advised the Staff Committee had concerns about the unresolved parking issues, although he noted he did not believe it would result in any impact on the design. The Committee was also concerned that the application was not supported by the Urban Design Panel, noting a project receiving non-support from the Panel is typically returned to the Panel before proceeding to the Board.

Mr. Beasley sought clarification regarding access to stadium parking, if it is provided in this project. Mr. Pinsker advised a separate access may be the best solution.

In further discussion about the distinction between preliminary and complete applications, James Cheng, Architect, noted that preliminary applications normally seek advice on the use, the form of development and general access to the site. The details are dealt with at complete submission stage. In this case, the tower locations, general distribution of the major components and circulation have been established and supported by staff and the Urban Design Panel. Since the only outstanding issues amount to honing the ground plane

development, they believe a complete application is more appropriate than downgrading it to preliminary status.

In response to a question from Mr. Rudberg concerning the pay-in lieu for 150 parking spaces, Mr. Negrin confirmed it is an acceptable condition of approval which they fully intend to meet.

#### **Comments from Other Speakers**

None.

#### **Panel Opinion**

Mr. Francl advised he met with the Development Planner and reviewed the direction being taken by the applicant in revising the initial submission. He found it to be a considerable improvement over the submission reviewed by the Urban Design Panel. Mr. Francl confirmed the Panel's vote of non-support was narrow (4-5). The Panel was fairly complimentary about the towers themselves, its concerns relating to the base of the building, the open space, and particularly the massing of the commercial corner at Expo Boulevard and Smithe Street. Mr. Francl said most of the substantive issues appear to be addressed in the work the applicant is now undertaking, and he thought the Panel would concur.

Mr. Hancock noted the tower massing and positioning are very good. He supported the recommended conditions dealing with the retail, the courtyard treatment and circulation. He also supported the concept of making the courtyard private so that it is more usable by the residents. Based on the reputation of the developer and applicant team, Mr. Hancock said he had no hesitation in recommending approval as a complete application.

Mr. Ross said he shared the concerns expressed by the Staff Committee about the unresolved issues and the non-support of the Urban Design Panel. Nevertheless, given the reputation of this developer, Mr. Ross said he would be comfortable if the application is approved as a complete, provided staff is satisfied and noting the concurrence of the Urban Design Panel Chair, albeit only one Panel member. In discussion, it was noted the Development Planner is confident the conditions will be satisfactorily addressed. The Staff Committee, however, expressed reservations, although it was also noted that the Committee had not seen the revisions made subsequent to its review. Mr. Ross commented that he found the situation very awkward.

Mr. Kavanagh expressed confidence that the application could be approved as a complete.

Mr. Scott said he did not believe it completely appropriate for the Board to consider an incomplete application. He did, however, recommend approval as a complete, based on the past performance of the applicant. With respect to streetscape, Mr. Scott said he would like to see trees on both sides of Beatty Street.

Mr. Mortensen said it would have been preferable to have some of the issues pinned down in greater detail. Based on the discussions, however, he said he believed the issues are resolvable. He concurred with activating and securing the courtyard more. With respect to the possibility of 100 stadium parking spaces being accommodated on this site, Mr. Mortensen said he had some concerns in terms of public way-finding. Given the work that has already occurred subsequent to the initial submission, he recommended approval as a complete.

Mr. Chung concurred with the previous comments and recommended approval as a complete.

#### **Board Discussion**

Mr. Scobie suggested the Staff Committee's recommendation reflected the expectation that a complete application should be more fully resolved than this application proved to be, noting the Staff Committee must review applications as submitted, without reference to subsequent revisions. As well, the Committee may have been reluctant to recommend complete approval since the Board would likely have similar concerns about

the unresolved nature of some rather substantial issues. Mr. Scobie added, he would have no concerns about the Board approving the application as a complete.

Commenting on the process, Mr. Rudberg said he had no major concern about approving the application as a complete. Most of the issues are resolvable. As well, the applicant team has indicated they clearly understand what is required. Mr. Rudberg added, the one issue that caused him some concern with respect to process was that only one member of the Urban Design Panel reviewed the revisions. He suggested it would have been preferable if what appears to be lobbying one member had not occurred. Mr. Francl noted it was the Development Planner, not the applicant, who invited him to review the revisions.

Mr. Beasley noted that one unresolved issue relates to the security of the courtyard and he recommended an additional condition to address it. With respect to streetscape, Mr. Beasley said he felt it was better to have a coherent streetscape on any one block and therefore the standard for this side of the street should be the Downtown South standard, reflecting what has been approved on the other side of the street in this block. He moved approval of the application as a complete.

With respect to parking, Mr. Rudberg said he had no concern if the parking standard is adjusted to meet the residential requirements of the site. However, he would be concerned if 100 stadium parking spaces are introduced on the site with internal access because it may not be compatible. He cautioned staff that, if it is contemplated that stadium parking is transferred to this site, another access location should be considered. The applicant will need to work with staff on this matter and any issues arising from it may need ultimately to be referred to the Board or the Director of Planning. It was noted that if the applicant chooses to introduce the 100 stadium parking stalls in this development, it will require a Minor Amendment. Mr. Beasley concurred with Mr. Rudberg's comments, stating it is not logical to expect stadium visitors to enter from the heart of the residential part of the site, nor is it appropriate for the residents to have to live with that. The Chair drew the applicant's attention to the comments of the Processing Centre - Building and Fire & Rescue contained in Appendix C of the Staff Committee Report. Mr. Negrin said he believed the issues raised can easily be addressed and are not serious.

#### **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. 406606 as submitted, subject to Council's approval of the final form of development, the plans and information forming a part thereof, thereby permitting the construction of a mixed use building containing two residential towers, a 26-storey tower and a 32-storey tower, and 10 townhouses for a total of 526 residential units, in accordance with the Development Permit Staff Committee Report dated June 26, 2002, with the following amendments:

Amend 1.0 to read:

Prior to issuance of a development permit, revised drawings and information shall be submitted to the satisfaction of the Director of Planning, clearly indicating:

Add 1.5:

design development to ensure the courtyard open space is safe and secure for the residents;

Amend 2.0 to read:

That the conditions set out in Appendix A be met prior to the issuance of the Development Permit;

Amend 3.0 to read:

That the Notes to Applicant and Conditions of the Development Permit set out in Appendix B be approved by the Board;

Amend A.2.10 to read:

provide False Creek North streetscape treatment adjacent to all sides of the site except on Beatty Street where Downtown South streetscape treatment should be provided;

Delete the first sentence in the **Note to Applicant** in A.2.10.

## 5. OTHER BUSINESS

### 1. Resolving legal anomaly - 1900 West Georgia Street

Reference was made to a memorandum from Larry Beasley dated July 5, 2002 (circulated) which outlines the unusual circumstances regarding this site. In 1990, a development application was issued which included the dedication of a portion of land for the widening of Georgia Street. While the dedication occurred, the developer did not proceed with the project and the development permit ultimately lapsed.

As a result, any new development application would have to be based on the reduced site size. This has created quite an inequity which can be addressed in a number of ways: rezoning; appeal a refusal to the Board of Variance; give the land back and take it back as part of a new application; or, relaxation by the Board on the grounds of hardship as provided under Section 3.2.4. Mr. Beasley explained his conclusion that the last approach is the best in terms of fairness and ease for the applicant and minimum bureaucracy for the City. Mr. Beasley noted a possible disadvantage is that it is not known how many other of these circumstances may exist and it might be seen as a precedent.

Mr. Beasley said he believes it is quite clear in this case that there is a gross inequity which deserves consideration of the most efficient manner of processing a development application, but without fettering the final decision that would be made.

Mr. Scobie cautioned that he believes the intent of the By-law is that there should be a one-time benefit for dedication. However, he noted that in this case a very large amount of the property was dedicated.

As well, since it is already in use for street improvement, it is now not possible for a temporary return of the property to the owner to technically allow the additional FSR for permit issuance purposes. He also noted that the discretion to allow such a relaxation only rests with the Board.

Advisory Panel members were asked for their opinion on the proposed motion.

Mr. Kavanagh said most of the methods of addressing the situation appear to penalize the landowner. He agreed that use of the "hardship" clause is the best solution in this case.

Mr. Ross also agreed the proposed solution would be a fair way to proceed.

Mr. Hancock said it is unreasonable for the owner to have lost the land and then lost development rights simply because the development permit was not renewed. Overall, he said he supported the proposed solution although he was troubled by the possibility of it setting a precedent.

Mr. Francl supported the proposed solution.

Mr. Scott said everything should be judged on its merits. In this case, the proposed solution is acceptable.

Mr. Mortensen said he believes it should be evident that this owner has given up a portion of his lands to the City. He had no objection to the proposed solution.

Mr. Chung also had no objections in this case but had some concern about it being precedent-setting.

Mr. Rudberg said he would not consider this proposal if the dedication had been received as part of a rezoning or subdivision. In this case, the City achieved some significant public policy objectives. He agreed he would be prepared to consider use of the hardship clause, noting it has to be based on the merits of the application. If this provides the security the landowner seeks, it is acceptable. Mr. Rudberg stressed, however, that it does not provide certainty.

Mr. Beasley stressed it should be clear that the resolution does not set a precedent. He also suggested it might be better to regularize how the City secures properties in cases where a building permit is not immediately achieved. Mr. Scobie suggested that rather than a one-time benefit at the time of development permit issuance perhaps it should be a one-time entitlement at the time of the initial subsequent development.

**Motion**

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

THAT the Board is prepared to consider an exercise of its discretion under Section 3.2.4 of the Zoning and Development By-law for a development on the site at 1900 West Georgia Street (Lot A, Block 54, District Lot 185, Plan 22925), of a scale and nature appropriate under the RM-6 District Schedule, for the purpose of including the development allowance that would otherwise have been available from that portion of the property which was previously dedicated to the City for the widening of Georgia Street as a pre-condition of the previous permit issuance.

**2. Development Permit Board Procedures**

Draft Development Permit Board procedures were distributed previously. Mr. Scobie explained that he believes the Board should have some documentation that anticipates as much as possible the different circumstances that can occur, and to ensure the Board is consistent in adhering to its procedures.

Mr. Beasley commented that he believes the procedures should be clear that if an unusual situation arises, Board members have the right to revise the procedures at any time. He also recommended:

- that the Chair introduce the Board and the Advisory Panel members at the start of each meeting and explain the procedures when there are public delegations in attendance;
- that members of the public be formally asked to remain seated when the Board and Panel members review the model and posted materials;
- that the Chair clearly announce the decision of the Board at the end of each item;
- that the Board may consider deferral of an item at the request of not only an applicant but also of a delegation.

Board and Panel members were requested to consider the draft procedures and forward additional suggested amendments and additions to the Chair.

There being no further business, the meeting adjourned at 7.45 pm.

C. Hubbard  
Clerk to the Board

F. Scobie  
Chair

/ch

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