

Date: Monday, January 10, 2011
Time: N/A
Place: N/A

PRESENT:

1128 ALBERNI STREET - DE413849 - ZONE DD

Minutes
Motion

553 WEST 7TH AVENUE - DE414251 - ZONE C3-A

Minutes
Motion

Board

C. Warren Director of Development Services (Chair)
B. Toderian Director of Planning
D. McLellan General Manager of Community Services Group
P. Judd General Manager of Engineering Services

Advisory Panel

B. Haden Representative of the Design Professions (Urban Design Panel) [Alberni Street]
O. Lang Representative of the Design Professions (Urban Design Panel) [West 7th Avenue]
F. Rafii Representative of the Design Professions
M. Pez Representative of the Development Industry
J. Stovell Representative of the Development Industry
M. Biazi Representative of the General Public
S. Bozorgzadeh Representative of the General Public
J. Miletic-Prelovac Representative of the General Public

Regrets

K. Maust Representative of the Design Professions
C. Chung Representative of the General Public

ALSO PRESENT:

City Staff:

B. Boons Assistant Director of Processing Centre - Development
P. Storer Engineering Services - Projects Branch
S. Black Development Planner
B. Adair Development Planner
S. Barker Project Facilitator
D. Autiero Project Facilitator

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R. Goes Musson Cattell Mackey Partnership
B. Reid Musson Cattell Mackey Partnership
D. Bourne Peterson Investment Group Inc.
C. Kennedy Dodwell Realty Ltd.
B. Mak Carmana Plaza

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J. Hwang Not present

M. Cheng Matthew Cheng Architects Inc.
T. Ivonore Seabright Holdings Ltd.

CLERK TO THE BOARD: L. Harvey

1. MINUTES

It was moved by Mr. Toderian seconded by Mr. Judd and was the decision of the Board to approve the minutes of the meeting on December 13, 2010.

2. BUSINESS ARISING FROM THE MINUTES

None.

**3. 500 Nicola Street - DE402764 - CD-1
(PRELIMINARY APPLICATION)**

Applicant: Musson Cattell Mackey Partnership

Request: To change the use of a total of 96 units in the existing 34 storey building from residential to hotel use (8 units on each of 12 floors).

Development Planner's Opening Comments

Sailen Black, Development Planner, introduced the application regarding a change of use to an existing building. Currently there are 243 residential units in the building and the owners are proposing 96 units as hotel suites, 2 units for hotel staff/office and 145 residential units. He noted that staff are supporting the use on the site. The application is for the conversion of the units with no exterior changes to the building. Mr. Black noted that there are enclosed balconies and ensuite storage which can't be exempted from FSR for the hotel. He also noted that the Development Permit Board may permit a bonus for hotel use and the application does qualify for that bonus. Mr. Black stated that one major issue was the loss of rental housing and Social Planning have made note of this in the Staff Committee Report. In general they consider the loss of rental housing regrettable although more rental units are being built in the downtown (approximately 600 units). Mr. Black stated that the applicant had not been renting the units and no tenants would be replaced. Staff have recommended in Condition 1.0 that the City secure a 60 year rental agreement for the 145 residential units. Mr. Black added that there were 458 responses received regarding the notification.

Mr. Black reviewed the recommendations contained in the Staff Committee Report dated December 15, 2010. The recommendation was for support of the proposal, subject to the conditions contained in the Staff Committee Report.

Questions/Discussion

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

- The units were converted to hotel use a number of years ago.
- The City doesn't have any means of preventing the units from being used for hotel use.
- The owner would have to get Council approval to should they wish to convert the building from the current use to condo use.
- The zoning allows for hotel use as well as rental.

- None of the rental units are secured at the moment.
- City staff are recommending the rental units be secured with a 60 year rental agreement.
- The rental agreement would be registered against the title.

Applicant's Comments

Mr. Reid, Architect, responded to the Staff Committee Report and noted that the bike storage is currently on different parking levels adjacent to the core and will be consolidated on Level E5. There is elevator access from Alberni Street to Level E5 and there is preference for this arrangement from a functional point of view. Regarding the rental covenant the owners have a problem with the proposed 60 year rental agreement. Mr. Reid noted that the hotel use has evolved from a 30 day short term rental to people wanting to stay for shorter periods of time. The building is currently not strata titled and they would need to go through a City process if they wanted to sell the units. He said that the owner feels the 60 year rental agreement would affect the valuation of the property and therefore the financing and could alter the value of the property. Mr. Reid said the property owner has a major issue regarding the 60 year rental agreement and would not be able to accept that condition.

Questions/Discussion

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

- There are eighteen years left on the current mortgage and the lender would have to be party to any charge registered on the title.
- The mortgage company would not agree to sign a 60 year rental agreement.
- A letter that was read by Mr. Bourne from Colliers International (a real estate firm) stating that a rental agreement would render the property less desirable for a potential purchaser. They believe the market value would be reduced by between 40-50%.
- The operation of the hotel currently employees 54 staff.
- The easiest way to secure the rental units is through a housing agreement as there isn't any other way to secure the units off title.
- The City's Legal Department is recommending a housing agreement to secure the rental units.
- The owner sent a letter to the City stating that he plans on keeping the rest of the units as rental (96 units).
- The building probably would have been approved as hotel use under the original permit as that is one of the permitted uses under the zoning.
- Extended stay hotel has become more common lately but this use is not listed under the zoning.

Comments from other Speakers

Rusty Kerr who lives in the West End was concerned that the building, which was originally built in 1996 and planned as a residential rental building, was being operated as an overnight hotel since around 2001. He wanted to know if the benefits to the City in the form of DCLs would have been higher if the owner had said they intended to build a mixed-use building. Mr. Kerr was also concerned with the assessed value and use of the building. He said he was in favour of the application provided there were amenities returned to the City to take into account the value of the way the owner is operating the business. He further added that he would ask the Board to defer the vote in order to ask the Legal Department to look at the applicant's request that they can not comply with the required housing agreement. He felt the Board did not have all the information to make a decision on the application.

Diane Cote lives in the West End and is part of an organization called the West End Neighbours. She said they were concerned with the loss of rental units and was concerned with renters having their rents increased. She said she thought the owner shouldn't be rewarded since the building had been operating as a hotel when it was set up as a rental building. She thought it was setting a bad precedent and noted that the owner couldn't be trusted since they hadn't played by the rules since the beginning. Ms. Cote added that there didn't seem to be any benefit to the community in approving the application.

Gail Harmer, Director of Senior Citizens of BC, noted that there is a huge issue for people with lower incomes to find appropriate rental housing. She added that the city is losing low and moderate income families and seniors to other areas in the lower mainland where rents tend to be cheaper. Ms. Harmer said she wanted the Board to secure a covenant to be registered on the title of the application.

Questions/Discussion

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

- There is no public benefit to the City if the Board approves the application because this isn't rezoning and no public benefits are required.
- The Board can't negotiate public benefits but it can secure the remainder of the rental units through a rental agreement that would be registered on title.
- There is an increase in the FSR due to the calculation but not an increase to the size of the building.
- Conversion of the units to strata title would require Council approval.
- The building was originally built as a rental project.
- Should the Board turn down the application the only legal use would be rental.
- The issue of the property value is only an issue if the property were to be put up for sale.
- The City has taxed the property based on hotel use since 2004.
- DCL charges based on 10,000 square feet would be around \$130,000 paid to the City.

Panel Opinion

Mr. Haden stated that the application did not go to the Urban Design Panel. He said that it is unlikely that not approving the application would actually provide any substantial benefit to the rental housing community. He added that the rental housing problem is complex issue, specifically affordable rental housing. The FSR change is relatively minor and is not a benefit to the applicant. Mr. Haden thought it was not the Board's civic responsibility to keep the banks happy. He felt there was some benefit in legalizing the active current uses to bring them in line with both the principles of the law and the actuality of the law and not do it in a way that the applicant was rewarded for a change of use.

Mr. Rafii recommended securing the rental units and thought that any change in the value of the property would have nothing to do with the rental covenant. He recommended support for the application.

Mr. Stovell agreed with the applicant that covenants are "impossible" and could result in default of the mortgage and suggested a time limit permit for the hotel use instead. He said he was surprised that there might be DCLs that were payable for this application. Mr. Stovell would support the application if the rental units could be secured without registering a covenant on title.

Mr. Pez noted that it was a complex project and thought it was unusual to have so many rental units without a rental agreement to secure them. He said he realized that they might have been built when a rental agreement wasn't required. Mr. Pez said he thought there was some onus on the part of the property owner to give something to the city such as offering rental on a long term basis and hotel use on a short term basis. He thought there should be something in place to secure the 145 rental units and added that he thought the housing covenant as proposed might be a bit onerous but thought this was an opportunity to acknowledge what is working and to put something in place to secure the rental operation for a number of years but not a 60 year covenant.

Mr. Biazzi suggested that if the Board approved the application they needed to consider the covenant and secure the rental units.

Ms. Miletic-Prelovac was in support of the application providing there was a solution for securing the rental units.

Mr. Sanderson thought it was a reasonable proposal, providing the residential units could be guaranteed. He said he wasn't convinced that the covenant was unacceptable and added that if there was a problem with the owner accepting a rental covenant then there should be other ways to secure the residential units. He thought the financial implications of the property were not within the purview of the Board and that it was generally a reasonable application provided the rental units could be secured.

Ms. Bozorgzadeh said the rental housing must be considered no matter what it takes.

Board Discussion

Mr. McLellan said it was a complex situation and was concerned about the covenant. He said he understood the complication around housing agreements and he was not surprised about all the difficulties around it. He noted that there were similar difficulties with other mechanisms that could be used to enforce any such sort of agreement because it all falls back on the City to provide the proof that in fact contraventions are occurring. It would be difficult to do in this situation where rooms could be rented weekly, daily or monthly. He added that it would be difficult to chase down that sort of enforcement. He said he didn't think the financial considerations were going to be paramount in this circumstance because they ebb and flow over time. He noted that it was up to the assessment authority to decide what the right tax structure was in terms of assessing the property. When it came back to the application, he said the Board needed to determine what was important. He said there was a strong interest in protecting jobs as well as rental units. As for the application, Mr. McLellan said he didn't see any compelling public interest to change the existing circumstances. He said he didn't see the Board exercising their discretion and allowing an increase in density for a questionable change of use. Mr. McLellan said he was not prepared to recommend to Board the application be approved and in fact he would put forth a resolution to turn down the application. He added that the property owner could always file an application to rezone the property and have it considered by Council.

Mr. Toderian observed that if the applicant had applied for hotel use in the first place they may have possibly had their application approved, as hotel is a permitted use. He noted however that the City has various policies to protect rental housing and is taking major efforts to secure additional new rental housing through various programs including the STIR initiative. He wanted to make it clear that new rental housing is a priority in the West End and across the city. Mr. Toderian said he was struggling with the application but was inclined to agree with Mr. McLellan's comments. He noted that having a housing agreement may or may not work for

the applicant or for the City and we could be left with the situation that we are losing rental stock. He added that he was sympathetic to the application given Council's interest in new job space and economic opportunities but in this case the rental priority should take precedent.

Mr. Judd supported the motion to not approve the development application.

Motion

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

THAT the Board NOT APPROVE Development Application No. DE413849.

4. 553 WEST 7TH AVENUE - DE414251 - ZONE C-3A (COMPLETE APPLICATION)

Applicant: Joe Hwang

Request: The development of a seven-storey Multiple Dwelling containing 22 dwelling units, over a common underground parking garage containing 22 vehicle parking spaces having vehicle access from the rear of the site.

Development Planner's Opening Comments

Bob Adair, Development Planner, described the context for the surrounding area noting that there was a previous application in early 2009 for the site which was withdrawn when it was noted that there was significant concern from the neighbours regarding overlook issues. The project has since been redesigned with planters added to soften the roof deck and another floor has been added. As well the floor to floor heights were reduced. The application is for a 7-storey building with twenty-two dwelling units and parking. Mr. Adair noted that the setback will have the same City Greenway's treatment as the property next door. There is no common amenity space in the building and the roof decks will be for the residential units below. Mr. Adair described the materials proposed for the project and noted that the applicant is seeking a minor relaxation. The applicant will be applying for LEED™ Silver certification.

Mr. Adair reviewed the recommendations contained in the Staff Committee Report dated December 15, 2011. The recommendation was for support of the proposal, subject to the conditions contained in the Staff Committee Report.

Questions/Discussion

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

- Two units on the east face, one on the back and one on the front, will have fewer windows in the side walls to preserve the livability for the building next door. Also there will be screens down the middle of the roof deck, the massing has been pulled back and planters have been added.
- The building will have painted concrete on the lane side.

- The colour palette is gold and silver. The colour on the architectural model is accurate. The Urban Design Panel had suggested more muted colours for the exterior of the building.
- In order to have a common roof top deck, stairs and the elevator would have to come up past the roof line for the elevator overrun and the stair well.
- The decks are for private use of the residents in the units below the roof so there isn't a privacy issue for the residents in the building next door.
- Unit 204 is the only unit to have a smaller balcony due to privacy impacts on the building next door.
- There isn't any access to the planters on the side of the property line other than for maintenance and to preserve privacy.

Applicant's Comments

Matthew Cheng noted that the life expectancy of the materials was twenty-five years but they were exploring other options and are still working with staff to see if there are better options. Mr. Cheng noted that the property owner was committed to LEED™ Silver certification. He added that overall the conditions were acceptable.

Questions/Discussion

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

- Exterior insulation is planned and as well there will be additional insulation in the walls.
- The applicant has a third party to guide them through the process of certifying for LEED™ Silver.
- The enclosed balcony was intended to create a volume to match the four-storey building next door and also help with noise insulation.
- The applicant is proposing using a hydraulic elevator.
- There are not a lot of enclosed balconies as the building is restricted by its location. Their expression is perhaps more liberal than normal for the area.

Comments from other Speakers

Adrian Hay disagreed that the resubmission had lessened the impact on the neighbours to the east as the design still impacts his property. He added that he felt the applicant did not deserve the increase in height.

Michelle Wymer had concerns regarding the roof deck on the 3rd floor and also about security. She had some concerns with possible noise from the mechanical room. As well she wondered if there would be an impact from the reflected material on the exterior of the building on the adjoining neighbours.

Jason Cook said the new building would have a serious impact on his unit as it would significantly reduce the amount of natural light they receive. He added that there would also be impacts from the landscaping onto his property.

Stacy Cook noted that they live in one of the townhouses and their wall will extend past the exterior wall on the east side of the new building. She wanted the building to be parallel to their building in order to maximize the amount of natural light into their unit.

Questions/Discussion

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

- Any development on the site would have shade impacts in the afternoon on the adjoining site.
- The roof deck wasn't shown in the original application.
- There was an adjacency issue but the new building will follow the line of the existing building.
- Regarding privacy issues, the side walls have a limited number of windows.
- Planters are proposed along the property line and a security screen will be added.
- The applicant doesn't anticipate any noise from the mechanical room.
- The applicant will reconsider the materials and as well as the reflective materials.
- The applicant is trying to make the landscaping attractive to the neighbours as well.

Panel Opinion

Mr. Lang noted that the Urban Design Panel reviewed the application and supported the proposal. He said he thought the podium had a clear articulation but seemed indecisive and he also thought the articulation was not very satisfying. He supported the common roof top deck even if the core needed to be extended. He said he had an issue with regard to the number of parking stalls, considering it is a seven storey building. He thought three floors of parking were too much as transit is nearby. He thought it was a waste of money to have to excavate the property and thought eight parking stalls per floor was highly inefficient. He suggested reducing the parking by one floor. Regarding sustainability, Mr. Lang suggested the application raise their rating from LEED™ Silver to at least LEED™ Gold equivalency.

Mr. Rafii thought the podium design should be developed to read separate from the tower. He noted that it would not be a simple over run for the elevator shaft to allow public access to the roof. It would also require two exit stairs and make for a massive dog house on the roof.

Mr. Stovell thought the cladding should be a higher quality material. He also agreed that the public roof deck would be a negative adding more mass and more structure to the building design. He added that it would be harder to regulate its use and there would be privacy issues.

Mr. Pez noted that it was a difficult site but thought the development had earned its floor space ratio and height. He said he was confident that the issues regarding the neighbouring building could be resolved. In order to earn the height, Mr. Pez thought the applicant should go for LEED™ Silver certification. He added that third party verification was appropriate if done with a reputable company. He said he was in agreement regarding the roof deck as giving public access could add to the problems. He said the building needed to do everything it could to be a good neighbour. Reducing the height would put pressure on the size of the foot print and wouldn't help with the adjacency issues. Mr. Pez said there were some issues with enclosed balconies in an area where one would expect to see an open balcony. However, he did support the enclosed balconies and thought they worked well in this design. He thought the materials needed some work regarding colour and texture but wouldn't reject the proposed materials. Mr. Pez said he was in support of the application and thought it earned its density and height.

Mr. Biazi thought the massing of the building was responsive to the site and the guidelines. He suggested that a couple of balconies could be removed and added to the living space. He said having access to the roof top deck would give people some outdoor space and the balconies could be removed from the design.

Ms. Miletic-Prelovac supported the massing, taking into consideration the size of the building. She said she would like to see more vertical lines and would also support some common amenity space that was not on the roof top so it didn't impact the neighbours. Ms. Miletic-Prelovac said she would like to see bolder colours on the façade of the building.

Mr. Sanderson thought the application reflected the zoning and development opportunities of the site. Unfortunately it was a small site but he thought the applicant had responded to the concerns of the UDP and the adjacent residents. He said it was unfortunate that the site wasn't consolidated with the adjacent site. Mr. Sanderson suggested increasing the height to resolve any adjacency issues.

Ms. Bozorgzadeh thought there were some design issues that could be improved and agreed that having public access on the roof was not workable. In general she supported the colours and materials. Ms. Bozorgzadeh said she was in support of the application with some refinement.

Board Discussion

Mr. Toderian made a motion to approve the application with amendments. He thanked the neighbours for their comments to the Board. He said he realized there was some sunlight, privacy and overlook challenges and was sympathetic to the amount of work staff had done on the application to address these. He noted that it was an unusual adjacency and in particular a challenging sunlight access situation with the current design, but that the applicant had done their best with the architectural design mitigation. He noted that sunlight access can't be guaranteed and was prepared to accept the approach staff had recommended as reasonable with amendments to various conditions suggested by Mr. Toderian.

Mr. Judd said he would support the motion and the amendments and also noted that it was a challenging site and some of the design elements of the adjacent building had made for a more challenging project. He thought that the conditions would mitigate some of the concerns of the neighbours and thought the application was supportable. Mr. Judd noted that the parking being proposed was actually less than was required and had smaller spaces. He added there could be some further reductions available for the applicant through the use of such things as car sharing.

Mr. McLellan had some questions regarding the amount of parking spaces noting that the unit layouts were modest and the building was close to transit. He added that the City was providing direction to encourage applicants to look at a parking variance as this would help to make for more affordable housing. Mr. McLellan was in support of the motion and the amendments.

Motion

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

THAT the Board APPROVE Development Application No. DE414251, in accordance with the Staff Committee Report dated December 15, 2010, with the following amendments:

Add a new Condition 1.1, vii to read: adding a planter along the western edge of the roof deck on the west side of unit number 701;

Amend Condition 1.2, Note to Applicant to read: Note to applicant: Strengthening or clarifying the proposed podium expression of the lower floors may be one option. Integrating the lower floors into the tower form by using a common structural grid could also be explored. Increasing light penetration to the interior spaces at both levels is encouraged.

Amend Condition 1.3, iii to read: incorporate a more lively or expressive color approach.

Amend Condition 1.4, Note to Applicant to read: Note to Applicant: Provide a LEED® checklist confirming LEED® equivalency and a detailed written description of how the above-noted points have been achieved with reference to specific building features in the development. Both the checklist and description should be incorporated into the drawing set. LEED® certification is strongly encouraged.

Adding a new Condition 1.5 to read: further design development to ensure that the proposed enclosed balconies in units 103 and 203 meet the guideline's intent of a clearly exterior expression.

Adding a new Condition 1.6 to read: consideration of a further parking reduction exchange in the context of equivalencies such as car sharing can be considered.

5. OTHER BUSINESS

None.

6. ADJOURNMENT

There being no further business, the meeting adjourned at 6:08 PM