

Date: Monday, November 30, 1998
Time: N/A
Place: N/A

PRESENT:

Business Arising From the Minutes - 65 Water Street

940 Seymour Street - DE403485 (Click here to read the report)

Minutes
Motion

2060 West 41st Avenue - DE402626/2099 West 42nd Avenue - DE402627

Minutes
Motion

1138 Melville Street - DE403460

Minutes
Motion

Board

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

Advisory Panel

J. Drohan Representative of the Design Professions (Urban Design Panel)
J. Hancock Representative of the Design Professions
A. Gjernes Representative of Development Industry
R. Mingay Representative of General Public
R. Roodenberg Representative of General Public

Regrets

P. Kavanagh Representative of Development Industry
D. Chung Representative of General Public
B. Parton Representative of General Public

ALSO PRESENT:

City Staff:

R. Segal Development Planner
M. Kemble Development Planner
B. Adair Development Planner
N. Peters City Surveyor

Item 3 - 940 Seymour Street - DE403485

D. Buttjes Architect
B. Wall Wall Financial Corporation
P. Bunt Transportation Consultant

Item 4 - 2060 West 41st Avenue - DE402626/2099 West 42nd Avenue - DE402627

S. Chandler Chandler & Associates Architecture

J. McLean for London Drugs
W. Powell London Drugs

Item 5 - 1138 Melville Street - DE403460

A. Hartley Architectura

CLERK TO THE BOARD: Carol Hubbard

The Chair explained that the meeting would be delayed pending the outcome of a court hearing in which a lawyer representing neighbours opposing the proposed development at 2060 West 41st Avenue/2099 West 42nd Avenue (Agenda Item 3) was seeking an injunction to prevent the Board from considering these applications.

At 3.30 pm the Board proceeded with business matters and Agenda Item 4.

During the Board's deliberations on Agenda Item 4, the Chair was informed that the Court had denied the request for an injunction and that the Board would be able to proceed with dealing with the applications.

Mr. Scobie noted the change in the composition of the Board which is effective today. He welcomed Larry Beasley, Co-Director of Planning, as the Board's new member, noting also that the Chair's role has been changed to be non-voting. The other voting members are the General Manager of Engineering Services and the Deputy City Manager.

1. MINUTES

The following amendments to the previous minutes were requested:

p.8, last sentence, should read: "... partly due to the relaxations being sought, but on the understanding that this project will not be a precedent ...";

p.1, Mr. Gjernes was present for the whole meeting (Mr. Kavanagh was present for Items #1 and 2 only);

Reference was made to a memorandum dated November 24, 1998, from Mike Kemble to the Board, concerning the development application for 65 Water Street which was approved at the last meeting. Mr. Kemble explained his request that the Board consider an additional Note to Applicant after condition 1.5. In discussion, the Board agreed it was appropriate to add the Note without the applicant being present because it only seeks clarification concerning the proposed public access from Water Street through the atrium, and is as discussed during the meeting. A copy of the proposed additional Note has been forwarded to the applicant. In further discussion, the Board amended the Note to include provision for access for the physically disabled.

The following Note is added to condition 1.5: *The required minimum clearance of 25 ft.-6 in. above the tracks of any pedestrian overpass across the CP Railyards results in a significant grade difference of approximately 8 feet between the second floor atrium level and the potential overpass connection level at the north property line. Measures will be required, including stairs, ramping or other vertical mechanical means, to allow for a convenient public pedestrian route through the atrium space, including provision for the physically disabled.*

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

THAT the Minutes of the Development Permit Board and Advisory Panel Meeting of November 2, 1998 be approved as amended.

2. BUSINESS ARISING FROM THE MINUTES

65 Water Street - DE403392

Copy of a letter dated November 9, 1998, from UD&D to the Minister of Small Business, Tourism and Culture had been previously circulated to Board and Panel members. In his letter, Mr. J. Lehto of UD&D expresses serious concerns about the protection of Gastown as an historic area. Copies of an extract from the minutes of the November 18, 1998 meeting of the Gastown Historic Area Planning Committee were also distributed to Board and Panel members. The Chair noted there is some concern within GHAPC that the representations they made at the November 2 Development Permit Board meeting may not have fully conveyed the Committee's position that the application should not be supported without significant revisions. However, based on his review of a transcript of the discussions, Mr. Scobie said he is satisfied the minutes provide an adequate summary.

3. 940 Seymour Street - DE403485 - Zone CD-1 (Preliminary Application)

Applicant: Buttjes Architecture Inc..

Request: To construct a 361 unit multiple dwelling development including a 33-storey residential tower and a 6-storey and penthouse podium base, with commercial use at grade.

Development Planner's Opening Comments

The Development Planner, Mike Kemble, presented this application to develop a very large site on the edge of the Downtown South area. The site was rezoned in 1996 as part of a heritage density transfer arrangement from the designated Dominion Motors site (now occupied by Staples) across the street. The rezoning resulted in the transfer of about 77,000 sq.ft. of additional floor area to this site, for a total maximum FSR of 6.71. The Downtown South Guidelines apply to this site, however, it was acknowledged at the rezoning stage that some of the guidelines would need to be relaxed, given the additional density.

Following a brief review of the immediate site context, Mr. Kemble described the proposal which is for a mixed use development comprising a 33-storey residential tower and 6-storey podium base with commercial use at grade level and residential above. The proposal complies with the guideline calling for 12 ft. setbacks on Nelson and Seymour Streets, and the Downtown South public realm treatment will be provided. The site is intersected by a Council-approved view corridor which limits height on the southerly portion of the site to about 230 ft. Mr. Kemble noted this site is affected by the one-way street patterns in this part of the Downtown, and vehicular access is proposed from the street as well as the lane, with one-way access (in only) off Seymour Street. Staff are recommending deletion of this street access, in accordance

with the Downtown South guidelines. 8,000 sq.ft. of amenity space is proposed, mainly located in the mezzanine level of the tower. High quality finishes are proposed.

The main issues identified by staff relate to the massing of the tower and its location on the site, the podium streetwall height and massing, and vehicular access off Seymour Street. These areas of concern are addressed by the prior-to conditions contained in the Staff Committee Report dated November 18, 1998, subject to which the recommendation is for the Board to approve the application in principle. Staff consider the proposal is a good solution that fits in well with its neighbours. Mr. Kemble briefly reviewed the proposed conditions of approval and tabled an additional condition (1.12) to provide an outdoor play area for children, noting the development will contain about 70 family units. Mr. Kemble reviewed the response to notification, as noted in the report.

Discussion

Mr. Beasley questioned whether there should be a requirement for an acoustic report which considers this development's proximity to the Granville Street entertainment district. With respect to the requirement for an outdoor play area for children, Mr. Gjernes questioned whether the 2-bedroom units in this development would meet the City's definition of family units. In response to a question from Mr. Rudberg, the Development Planner briefly reviewed the rationale for staff's support of the proposed 18 ft. setback from the Dufferin Hotel, noting the potential impact on the development at 955 Richards Street and the creation of an undesirable alignment of three midblock towers.

Applicant's Comments

Mr. Dirk Buttjes, Architect, noted the proposal was revised as a result of commentary from the Urban Design Panel which did not support the project in its initial review. Mr. Buttjes noted the Panel strongly supported the 6-storey streetwall presence on Seymour Street. The Panel also supported the proposed vehicular access off Seymour. Mr. Buttjes noted the proposal has been discussed fully with the neighbour across the street at 955 Richards Street. He presented illustrations of the east and west elevations, and described the revisions made to respond to some of the issues that have been raised. With respect to the proposed conditions, Mr. Buttjes noted they have no problem with any of the conditions with the exception of 1.7 dealing with vehicular access, and 3.0.

Mr. Paul Bunt, Transportation Consultant, described the rationale for the proposed vehicular access off Seymour Street and the request to relax the Downtown South guideline calling for lane access only. He reviewed the somewhat unique circumstances of this particular site, located amid the downtown one-way street system. The lack of any street access, given that Seymour Street is a one-way, places the ground floor retail component at a severe disadvantage in terms of convenient customer access. Mr. Bunt noted the proposal is to be one way inbound only (exiting to the lane) which would minimize any conflict with pedestrian traffic on the street. In summary, he urged the Board to approve their proposal for the mid-block crossing on Seymour Street.

Given they believe most of the conditions are achievable, Mr. Buttjes also requested that condition 3.0 be amended to permit the complete application to be dealt with by the Director of Planning on behalf of the Board.

Referring to Appendix A of the Staff Committee Report, Mr. Buttjes questioned whether condition A.1.15 would be applicable since the question of heritage density was addressed at the rezoning stage. The Chair agreed the condition would be redundant if it is established that the requested letter is not required.

Discussion

In response to a question from Ms. Mingay concerning the vehicular access off the street for the nearby Wall Centre complex, Mr. Segal, Senior Development Planner, noted the access requirements for hotel are far greater than for a development such as this proposal. Further, the Downtown South Guidelines do not apply to the Wall Centre site. Responding to a question from Mr. Beasley concerning the architectural implications of eliminating the Seymour Street vehicular access, Mr. Buttjes said they would probably extend the commercial component to the tower entrance. He noted they have attempted to minimize its impact by limiting it to a fairly narrow crossing, pinched with commercial use on its south side.

Mr. Buttjes confirmed they have no objection to the new condition 1.12.

Comments from Other Speakers

Mr. C. Brook, representing the applicants for the development at 955 Richards Street (an approved 2-tower development application currently being processed), noted a major issue relates to the interface between the Downtown South and the treatment of the public realm, in particular the lanes. 955 Richards Street has its main residential entry off the lane, and considerable efforts have been made to improve the character of the lane. The challenge lies in dealing with the interface with the subject proposal which has a commercial base, has a much larger floorplate and is greater in height. The interface with the wide podium is also of concern, noting as well that its impact is magnified because 955 Richards is topographically lower than the proposal site. Mr. Brook noted they have had two meetings and several conversations with the applicants and they believe they have reached a satisfactory arrangement between the two projects.

Mr. Brook requested the Board to take some points into consideration. They are in support of the proposed vehicular access off Seymour Street because there is the potential for very high volumes of traffic in the blocks between Seymour and Richards Streets. Mr. Brook cited the very high density of this site, the 5.0 FSR on the 955 Richards Street site, and the development potential of two sites still to be redeveloped, which have a combined potential of approximately 800 dwelling units plus retail. Given the efforts being made to enhance the livability of the lanes in Downtown South, and the peculiarities of this block, it would be appropriate and beneficial to be able to divert some of this high traffic volume to Seymour Street. With respect to the lane treatment, Mr. Brook said they believe there is still some room for improvement on the lane side of the proposal. They would recommend further enhancement of the podium, noting there are opportunities to introduce glazing and other architectural treatment on the lane-facing podium wall to reflect the level of quality and residential character being developed across the lane. Mr. Brook also recommended further architectural detailing on the stepped portion at the end of the podium. In addition, they request that the loading be moved to a more central location so that it does not align with the drive-way of 955 Richards Street. With respect to the relationship between the two developments, Mr. Brook noted the separation is not quite the minimum 80 ft. recommended in the Downtown South guidelines. Given the floorplate exceeds the guidelines, they think it is important to achieve the full 80 ft. separation. He commended the applicant's efforts at articulating the building in the attempt to achieve maximum separation, however, there are a number of (mostly open) balconies which protrude into the 80 ft. radius which they suggest could be shifted.

Because of their concerns about the potential impact of this proposal on their development, Mr. Brook urged the Board to retain condition 3.0 to require the complete submission to be considered by the Board.

Responding to Mr. Brook's suggested changes on the lane side, Mr. Buttjes said they are satisfied they can address and meet the concerns expressed by the neighbour, namely the loading bay location, treatment of the podium, the terracing at the lower level on Nelson Street. With respect to Mr. Brook's suggestion for fully meeting the 80 ft. separation, Mr. Buttjes advised they are not strongly opposed but would like to investigate the issue further, noting they have worked hard to create the elevation and blend the architectural character together, including the shadowing characteristics of the balconies in question.

Mr. S. Campbell, Downtown South Association, and resident of 415 Nelson Street, said the Dufferin Hotel is not an SRO facility, as stated in the Staff Committee Report, but is a year-round tourist hotel. He urged the Board not to relax any of the Downtown South guidelines, noting the time and effort required to put them in place. Mr. Campbell questioned the inclusion of 70 family units in this development because of the lack of schools and family amenities in the area. With respect to the driveway off Seymour Street, Mr. Campbell pointed out there would be a conflict with the Rapidbus stop in this location. He noted the project contains no requirement for housing core-need. He also noted the residents of 415 Nelson Street were not notified of this application by the City, and they are concerned about the potential loss of view and shadowing impact. Given this site previously contained car dealerships, Mr. Campbell noted that soils remediation will be required.

Discussion

Responding to a question from Mr. Rudberg regarding soils remediation, Mr. Segal advised that a development application such as this is automatically reviewed by the appropriate City staff. Mr. Scobie added, the issue would normally be resolved as part of the site rezoning, but suggested a condition be added to ensure the matter is addressed. Mr. B. Wall advised it was a requirement of the rezoning for a soils report and this is currently in preparation. He confirmed he would have no objection to the Board adding a further condition to the application, noting it may be redundant in any event.

In response to a question from Mr. Beasley regarding staff's reaction to the report of the transportation consultant, Mr. N. Peters, City Surveyor, advised Engineering's main concern was that the guideline be met. The circumstance of the need for circuitous routing is common in the downtown area and not unique to this site. Engineering's concern relates to the potential conflict with pedestrian traffic. Mr. Peters acknowledged, however, that street access may be considered appropriate in this instance given it would be in-only. Mr. Segal noted there is provision for relaxation of lane-only access for streets which share a lane adjacent to Granville Street, although to date this guideline has not been relaxed elsewhere in Downtown South. Mr. Rudberg commented it is clearly a judgment call and he looked with interest to the opinion of the Advisory Panel members.

(Board and Panel members took a few minutes to review the model and posted drawings)

Panel Opinion

Ms. Drohan reported that the Urban Design Panel saw this application twice. With respect to the tower massing and location, the Panel noted that the tower-and-podium model has become commonplace in the downtown core and it found this particular approach, with its high streetwall podium and large tower at one end of the site, to be commendably refreshing. Regarding the 80 ft. separation and Mr. Brook's suggested adjustment of the balcony, Ms. Drohan noted the Panel supported the applicant's proposal. However, if it is not too difficult to shift the balcony as suggested, it would be an improved condition. The prior-to conditions adequately address the issues around the podium, and Ms. Drohan added that the illustrations presented by the applicant, while representing only work in progress, do indicate that the

design is headed in a positive direction. The Panel supported the proposed vehicular access off the street and saw it as an opportunity to break up the lengthy facade on Seymour Street. The Panel felt that, because this proposal is a unique model and the streetwall is relatively strong, this access helps to break it down somewhat. She added, the transportation consultant's comments about the difficulty of accessing this site are well taken. Mr. Brook's statement about potential congestion in the lane is also a valid concern. With respect to condition 1.2, Ms. Drohan suggested an amendment to address Mr. Brook's concerns about the treatment at the lane, including relocation of the loading bay. In summary, she said she supported the project and reiterated that the Urban Design Panel felt it provided a unique approach to the tower/podium model in the downtown area, providing spatial relief to its immediate context.

Mr. Hancock said he liked the project and found it refreshing to see a strong horizontal element in the city. With respect to the relationship to 955 Richards Street, he noted the 80 ft. separation has almost been achieved but if there are ways to improve it by relocating the balcony they should be considered. The recommendations to reduce the height of the podium and to reduce the massing of the penthouse are supportable. Regarding the access from Seymour Street, Mr. Hancock felt it would be desirable in this fairly unique condition. He agreed with Ms. Drohan that it serves as a useful punctuation point in terms of the massing of the building. He also thought the concerns about congestion in the lane were valid. He concurred with the recommended conditions, with the exception of 1.7 dealing with the access. As well, condition 1.4 could be augmented to seek further development of the end treatment as it terraces down towards the lane.

Mr. Gjernes recommended approval in principle. This is a high density site and a fair amount of urbanization must be recognized, noting as well the view corridor which limits the massing. He said he was satisfied with the proposed setback from the adjacent Dufferin Hotel. He was convinced by the arguments in favour of the Seymour Street crossing and supported the deletion of condition 1.7. He said the number of family units in this project is not great and this should be recognized in addressing the Housing Centre condition for providing an outdoor play area. Given this is a fairly comprehensive submission, with many of the issues resolved, Mr. Gjernes suggested the complete application could be dealt with by the Director of Planning on behalf of the Board.

Mr. Roodenberg also supported the application. He supported relocating the loading bay, and also favoured a Seymour Street access to alleviate congestion in the lane. Regarding the suggestion of adjusting the balcony to fully meet the 80 ft. separation, Mr. Roodenberg said he would prefer it to remain as proposed if moving it results in compromising the design.

Ms. Mingay said she appreciated Mr. Brook's comments and was encouraged by the cooperative relationship between the two developers. She shared Mr. Roodenberg's reluctance to see the design compromised in terms of relocating the balcony. She agreed with the deletion of condition 1.7. She added, it is a very nice design that will be a welcome addition to this part of Seymour Street.

Board Discussion

Mr. Beasley said this is a very good project and he commended the applicants for a good preliminary submission for what is also a very big project. He agreed with staff, however, that it will need very careful detailing. He noted that the design development that has occurred to date is clearly going in the right direction and deals with many of the issues that have been raised. It is important to achieve the separation of towers in Downtown South and any relaxation of the guideline in this respect would start to compromise livability in this high density neighbourhood. Mr. Beasley said he was also concerned about the proximity of this

development to the Dufferin Hotel, and expressed surprise that the hotel owners have not responded to this application. However, he was satisfied with the conditions for design development to deal with this relationship. He acknowledged the cooperation that has occurred between this developer and the neighbour at 955 Richards Street and thought Mr. Brook's proposals were reasonable and supportable. With respect to the requirement for a children's play area, Mr. Beasley commented that while he does not believe there will be large numbers of children in this area, there is no disbenefit to accommodating the request, noting also that the City's guidelines and policies suggest that, wherever possible, it should be assumed there will be children in the downtown. With respect to acoustics, Mr. Beasley said he believed there should be some warning about the noise from the entertainment district. Mr. Beasley said he was convinced that vehicular access from Seymour Street should be supported, noting this is a relatively unique circumstance given the amount of retail at grade. He did not believe it would set a precedent.

Mr. Beasley recommended approval in principle with amendment to conditions 1.2 and 1.4, deletion of 1.7, and the addition of 1.12 and 1.13. Given its complexity, he agreed with the Staff Committee recommendation that the complete application should return to the Board, noting also that this has also been requested by a neighbour. He also recommended amendments to the standard conditions, dealing with the issues raised about heritage density confirmation, acoustics, and soils remediation.

In seconding the motion, Mr. Rudberg said he agreed with the Urban Design Panel that this development will be a refreshing change for Downtown South. He supported having vehicular access off Seymour Street and did not consider it to be a precedent because this situation is unique. He stressed it does not indicate a change in policy with regard to street access in Downtown South.

Motion

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

THAT the Board APPROVE IN PRINCIPLE Development Application No. 403485, in accordance with the Development Permit Staff Committee Report dated November 18, 1998, with the following amendments:

Amend 1.2: design development, including architectural treatment, landscaping, fenestration and detailing, to the treatment of the podium façade on the courtyard side and at the lane level fronting the adjacent residential development, to improve ...

Add to the Note to Applicant: Consideration should be given to the location of the loading bay to minimize its impact on the adjacent residential development.

Amend 1.4: add: including the treatment of the façades facing the lane;

Delete 1.7;

Add 1.12: design development to the private open space area on the podium level, to provide an outdoor play area for children, in response to approved guidelines;

Add 1.13: design development to provide a full building separation of 80 ft. between the tower and the adjacent tower to the east;

Amend A.1.15: submit a letter (sample attached), if necessary, ...

Amend A.3.1 to add a Note to Applicant: The consultant's acoustical report should consider the special circumstance of the adjacency to the Granville Street entertainment district and identify acoustical measures appropriate for the building.

Add A.4.5: Staff will confirm that soil remediation has been secured consistent with City policy.

CARRIED UNANIMOUSLY

Commenting on Mr. Campbell's concern regarding the provision of core needy housing, Mr. Gjernes noted that this application is subject to the City's Development Cost Levy, some of which is earmarked for core needy housing and amenities in the area.

The Chair confirmed he had been advised that the court denied the requested injunction concerning the following Development Applications and that the Board's review of the complete submission could proceed. It was noted that the objecting parties, who had pre-registered to address the Board, were not present. In discussion as to whether the review should be further deferred until Mr. Stromberg and his legal representative were in attendance, the Board concluded that while it is important for the Board meeting to be completely open, the fact that members of the public declare an interest does not permit them to delay the process if they then choose not to appear. More than one hour had passed since the court decision; ample time for these delegations to appear. There is also a need to consider all parties, including others who may also wish to address the Board on these applications. The Board therefore agreed unanimously to proceed.

**4. 2060 WEST 41ST AVENUE - DE402626 ZONE C-2/
2099 WEST 42ND AVENUE - DE402627 - ZONE C-2
(COMPLETE AFTER PRELIMINARY)**

Applicant: Chandler & Associates Architecture

Request: 1. On the north block (2060 West 41st Avenue/DE402626), to construct a four storey building containing retail use (5,926 sq.ft.) on the first floor and office use on the upper floors with two levels of underground parking;

2. On the south block (2099 West 42nd Avenue/DE402627), to construct a multi-level (3 to 5 storey) commercial/residential complex consisting of 44,408 sq ft of retail/office space and 59 dwelling units with three levels of underground parking.

To increase the building heights from (1) 40 ft. to 55 ft. and (2) 40 ft. to 55 ft.

Development Planner's Opening Comments

The Development Planner, Bob Adair, presented these applications, approved in principle by the Board on January 12, 1998. He briefly described the complete submission and reviewed how the applicant has addressed the conditions of the preliminary approval. It was noted the model has already been revised to reflect one of the recommended conditions of complete

approval. Mr. Adair then reviewed the main prior-to conditions recommended for the complete applications. With respect to condition 1.9 of the 2099 West 42nd Avenue application, which attempts to limit the ground floor commercial space to office use, Mr. Adair noted that the City's Law Department has advised this condition could not be enforced since retail is an outright use in the C-2 zone. The area in question was previously proposed for residential use. After consultation with Engineering with respect to special paving, deletion of 1.11 is also recommended.

Mr. Adair noted that the West 42nd Avenue setback has been the most difficult issue in this proposal, being significantly reduced from the preliminary submission. However, recognising that the zoning and guidelines do not require setbacks, and given that the proposal has been reduced to the outright height of 40 ft. along 42nd Avenue, as well as the good quality of materials and generally successful resolution of the elevations, staff conclude there is no negative impact on the neighbours across the street. Staff consider it is a good response within the context of what the C-2 zoning permits and recommend support of the setback as proposed, but with the upper floors pulled back from the street.

Mr. Adair briefly reviewed the response to notification. He noted that the lawyer representing property owners on the south side of West 42nd Avenue notified the applicant of their objection to the proposed setbacks, based on decisions made by Council in 1958 and 1968 whereby it purported to attach conditions to developments under this C-2 rezoning, to require landscaped setbacks of 24 ft. along 42nd Avenue. The lawyer argued that the conditions attached by Council at that time should apply to any subsequent development. Advice from the City's Legal Department refutes this contention, stating that the site is zoned C-2 and that the conditions imposed by Council in 1958 and 1968 are binding only on the development approved at that time. Further, if Council had wanted those conditions to apply to subsequent developments it would have been registered on title. The C-2 zoning requires no setback.

The Staff Committee recommendation is for approval of the applications, subject to the conditions outlined in the report dated November 18, 1998.

Discussion

Responding to a question from Mr. Beasley concerning treatment of display windows (condition 1.6), Mr. Adair explained the intent is to ensure these windows are not obscured. Senior Development Planner, Ralph Segal, noted there has been a precedent for such a requirement in the downtown, adding it is an ongoing problem with large scale retail operations that require as much interior wall space as possible for display purposes.

Responding to a question from Mr. Beasley regarding the impact of requiring the setbacks suggested at the preliminary stage, Mr. Adair said there would be a loss of floor space and an impact on the applicant's proforma.

Mr. Rudberg expressed concern about the Fire Department's comments and lack of clearance, particularly if compliance impacts the form of development. Mr. Rudberg also sought clarification regarding the neighbours' lawyer's request for compensation in exchange for their non-opposition to this proposal, as noted in the report. Mr. Adair said the form of compensation was not defined.

Commenting on the rezoning history of this site and the conditions that were attached by Council in the past, Mr. Scobie suggested the conditions were probably agreed to by the developer at the time to accommodate concerns of the local community who were concerned about introducing commercial development into what previously had been a residential site.

Nevertheless, from that time on, it is the zoning which legally prevails, and this was confirmed by the court today. The City's Legal Department has also confirmed there is no legal obligation to require a setback other than as required by the C-2 Zoning District Schedule.

With respect to the use of the easterly building on West 42nd Avenue, the Legal Department has confirmed the questionable validity of applying a covenant to restrict the use to office because it would be tantamount to rezoning the site. With respect to the setbacks required by the Board at the preliminary stage, Mr. Scobie noted these were secured as part of the Board's consideration of the conditional aspects of the proposal. He said he would be reluctant to suggest that the Board now seek greater setbacks, however, the Board can insist that the preliminary setbacks be adhered to. The Development Planner advised the setback at the preliminary stage (when the proposal was for residential use) was an average of 11 ft. He explained that staff's conclusion that the reduced setback of the complete submission was satisfactory was based on the proposed office use, particularly if that use could be guaranteed. Staff recognized that retail or restaurant use would not be appropriate, and, if it is not possible to ensure the space remains office, would not be comfortable with the reduced setback as now presented. In response to a question from Mr. Beasley, Mr. Adair confirmed that restaurant is an outright use in the C-2 zone. Mr. Gjernes suggested a design solution could be sought which might preclude retail or restaurant use, but Mr. Adair cautioned it would be very difficult to control relatively minor façade changes given the outright use.

Applicant's Comments

Mr. Sheldon Chandler, Architect, noted the objective of London Drugs is to develop a quality, mixed use project that will be beneficial to the Kerrisdale neighbourhood, providing quality housing and specialty retailing to complement the surrounding area. He described how they would deal with the recommended prior-to conditions for the West 41st Avenue component. With respect condition 1.9 of the West 42nd Avenue component, Mr. Chandler explained that as the design evolved they found the enclave at the easterly end was too small for residential use, so the intent is to develop professional offices with a residential exterior character. With respect to setbacks to the east of the walkway, Mr. Chandler said they have reduced the frontage of the building to 4 ft. (5 ft.-6 in. to the glazing), and will increase the setback for the two upper levels to 10 ft., and a further 6 ft. for the level above. He briefly reviewed the grade level proposal, noting its pedestrian orientation and existing street trees and the intent to complement the existing natural landscaping.

Mr. Jim McLean, representing London Drugs, noted they have reverted to the outright use of office/ commercial on the West 41st Avenue site, based on recent market analysis. He confirmed they can address the condition to set back the top floor. With respect to the West 42nd Avenue site, Mr. McLean stressed they are definitely planning for professional offices in the easterly building, and they believe the articulation of the street front provides the residential character they want to achieve. He said he felt sure they could somehow legally satisfy the City in this respect, noting they are also proposing to restrict the use through the strata. He advised they have no objection to the City imposing a covenant. Because they are now proposing the office use, they believe it is more appropriate to have a reduced setback, noting, however, the setbacks above, creating the stepping called for in the C-2 guidelines to address overview from adjacent residential.

Responding to Mr. Rudberg's concerns about issues raised by the Fire Department, Mr. Chandler said he believed the reference in the report to a distance of 45 m from curb to entrances was in error, noting the site is only 130 ft. deep. He said he has discussed this matter with staff who have confirmed the report is in error. Mr. Chandler added they have been meeting with the fire inspector to ensure compliance and there appears to be no problem.

With respect to the lane wall (condition 1.4), Mr. Chandler said their intention was to provide an arch treatment in brick, similar to the front, but with a painted surface in the centre where it is more susceptible to graffiti.

The applicant team took questions from the Board and Panel members.

Comments from other Speakers

Mr. Craig Aspinall, Public Relations Consultant to London Drugs, read letters of support for the project from Mrs. M.I. Chang of 2048 West 41st Avenue, and from the Kerrisdale Business Association. Mr. Aspinall added that he personally canvassed 37 businesses in the 2000 block West 41st Avenue and all 24 owners or managers he was able to speak to strongly supported the development.

Mr. Win Powell, President of London Drugs, assured the Board that his company would not allow any windows in front of their premises to be put into disarray. London Drugs is a long term, strong community player and they would make sure the windows are maintained to a very high standard.

Mr. Richard Wong, Manager of a residential apartment building on East Boulevard, explained that his building houses about 22 families, mostly senior citizens. He congratulated London Drugs on their proposal to maintain the store in the same location because it provides an important service to local seniors, noting also the proximity to the Kerrisdale seniors' centre.

(Board and Panel Members took a few minutes to review the model and posted drawings)

Panel Opinion

Ms. Drohan said the Urban Design Panel supported these applications unanimously the last time the proposal was reviewed. In general, the Panel found the project to be considerably improved since the previous submission, especially in the area of the 42nd Avenue streetscape in respect to the massing, quality of materials, weather protection and, most particularly, the architectural expression. The other significant improvement noted by the Panel was the approach to the open space on the podium, largely as a result of breaking down the 42nd Avenue façade into distinct buildings which allowed the space to open up more to the street. In general, the Panel found it to be quite a difficult, complex mix of uses but very well handled, both in terms of planning and design.

With respect to the 41st Avenue component, while the Panel encouraged the widening of the walkway to the lane, it did not support the cut-away at 41st Avenue because it was felt the streetwall should take precedence, given the 41st Avenue façade is relatively short. With respect to the recommendation for knock-out panels on the east wall, whether or not this can be achieved the Panel saw this area as an opportunity for some further animation of this walkway in the future. Ms. Drohan said she saw no problem with the setbacks sought on 41st Avenue.

Regarding the easternmost block on 42nd Avenue, Ms. Drohan noted it was a recommendation of the Panel to consider commercial use, partly as a continuation of the uses on the walkway. With respect to the setbacks called for in condition 1.10, Ms. Drohan said the Panel found the streetwall frame expression quite strong, giving real character to the development. She therefore thought the Panel would be reluctant to support removal of the frame at the second storey because it would start to erode the strength of the streetwall. Given the reduced height, the use of good quality materials, the landscaping treatment, and the additional

setback of the upper floors, Ms. Drohan said she believes the easterly block is an appropriate urban design response for a project of this nature. However, given the pressure to set the building back, she felt it would be more appropriate to set the whole building back rather than stepping above the first floor, as discussed.

The Panel considered the proposal to be a very appropriate development for Kerrisdale and one which may be a precedent for future development in the area.

Mr. Hancock said it is a very strong urban design response at a busy intersection and a positive example for the C-2 zone. On 41st Avenue, Mr. Hancock supported the setback of the top floor on the north and south sides but was not as convinced it is necessary on the east and west sides because of the resulting "wedding cake" appearance which also impacts on the development potential of adjacent properties. Mr. Hancock said he was not convinced that setting back the easterly building on 42nd Avenue is a very effective gesture for the residences across the street. He said he would support it as proposed. He questioned the necessity for condition 1.1 on 42nd Avenue, and with respect to 1.6, questioned whether the City should be involved in the treatment of display windows. Regarding the use of the easterly building on 42nd Avenue, Mr. Hancock noted the applicant appears willing to enter into some arrangement with the City to maintain them as professional offices and he encouraged this to be pursued.

Mr. Gjernes commented that London Drugs has been a good corporate citizen of Kerrisdale for some time, and he encouraged the redevelopment of the site. He added, while he recognized the reasons for not doing so, he felt a better project could have evolved with a rezoning of the site. However, it is a good project under C-2 and the redevelopment will be good for Kerrisdale. The parking off the lane will be a benefit to the residents on 42nd Avenue. Mr. Gjernes said he supported most of staff's design comments and it appeared the applicant could work with the conditions. He had one concern about the walkway from 42nd to the lane, where he would prefer to see windows rather than door access. Provided the knock-out panels do not compromise fire code requirements for London Drugs it is a reasonable requirement. Regarding condition 1.9, Mr. Gjernes said he would like to see a condition relating to a design that does not allow the whole area to the east of the walkway to become one tenant. He said he was satisfied the applicant could satisfactorily address the setback called for in 1.10. Mr. Gjernes recommended that the Board approve the applications.

Ms. Mingay said she found 41st Avenue streetscape very interesting but she did not support the roof form to the west. In general, she said it will be a good project for the area and she supported approval.

Mr. Roodenberg said he liked the project and thought it would be a real asset to Kerrisdale. He agreed with Mr. Hancock that the treatment of the display windows should be left to the market. He noted the applicant is responding well to the guidelines and he supported approval of the applications.

Board Discussion

Ms. Rogers noted the Advisory Panel comments were particularly helpful. She supported the applications and recommended some amendments to the conditions. In seconding the motion, Mr. Rudberg commented he was somewhat surprised by Mr. McLean's statements about the market-driven change from residential to office the use on 41st Avenue. Mr. Beasley also supported the motion. He did state, however, that he still found the easterly building somewhat troubling, noting that if it were not possible to limit the use of the ground floor he would have preferred to require greater setback of the whole building. He noted that while the neighbours were not present today, they had indicated some very fundamental concerns at the

preliminary stage. He said he hoped that careful attention to addressing the conditions will go some way to creating a more neighbourly response. It is also important to remember that this new development will significantly improve the very unsatisfactory situation that currently exists on this site.

Motion

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

THAT the Board APPROVE Development Application No. 402626, in accordance with the Development Permit Staff Committee Report dated November 18, 1998, with the following amendments:

Amend 1.1: at the preliminary stage, including consideration to also reinstitute the previous glazed wall expression and curved roof form;

Add to 1.2: subject site, or an alternate form subject to the approval of the Director of Planning;

Add to 1.5: the lane, with pre-approval to do knock-outs and glaze out existing walls, subject to meeting all City requirements;

CARRIED UNANIMOUSLY

THAT the Board APPROVE Development Application No. 402627, in accordance with the Development Permit Staff Committee Report dated November 18, 1998, with the following amendments:

Delete 1.6;

Amend 1.7 (c): adjustments to the median on West 41st Avenue east of East Boulevard

Amend 1.9: consideration be given to an arrangement, to the satisfaction of the Director of Legal Services and Director of Planning, to the extent possible, for office use only on West 42nd Avenue

Add to 1.10: to a minimum of 10 ft., and 16 ft. for the 4th floor;

Delete 1.11

CARRIED UNANIMOUSLY

Mr. Scobie drew the attention of the applicant to standard condition BB.1.6 relating to possible future subdivision. To avoid possible Building By-law complications, he urged the applicant to initiate discussions with staff as soon as possible if subdivision is contemplated.

**5. 1138 MELVILLE STREET - DE403460 - ZONE DD
(COMPLETE APPLICATION)**

Applicant: Architectura

Request: To construct an 18-storey office tower with commercial uses at grade. 176 underground parking spaces are provided, with access from Melville Street.

Development Planner's Opening Comments

The Development Planner, Mike Kemble, presented this complete application, noting the original concept for this site was for a comprehensively designed scheme comprising two towers - a 26-storey residential tower on the westerly side and a 35-storey hotel on the easterly side. The residential tower, The Orca, has been completed and is occupied. However, the hotel tower was not pursued and was ultimately replaced by the subject application which is for an 18-storey office tower. Mr. Kemble briefly described the immediate site context and focused on the issues that have been identified by staff. The main area of concern relates to the treatment of the podium along Melville Street, noting the earlier approved hotel concept had a continuous frame which defined the street edge. Staff believe it is important to achieve a better relationship with the Orca and are recommending further design development in this area. Other areas of concern relate to the setback of the entrance, façade treatment of the tower, the retaining walls and landscape treatment along the east and west property lines, and treatment of the Melville Street garage entry. The Staff Committee recommendation is for approval of the application, subject to the conditions outlined in the report dated November 18, 1998.

Applicant's Comments

Mr. Alan Hartley, Architect, advised he was in agreement with the recommended prior-to conditions. With respect to the mid-block pedestrian route, Mr. Hartley explained it presently goes from Melville to Pender and the policy intent it is that it will ultimately also extend from Hastings to Georgia. He briefly reviewed the rationale for the proposed massing and for the vehicular access off Melville Street. He confirmed they have no objection to the conditions.

Comments from other Speakers

None.

Panel Opinion

Ms. Drohan advised the Urban Design Panel unanimously supported this application in its second review, and she noted that the prior-to conditions capture the essence of the Panel's comments. The Panel recognized improvements to the massing and supported the height increase and adjustments to the floor plate and the colour palette. There were concerns about the "supergrid" which was considered by some Panel members to be somewhat jarring in its contrast. It was also suggested the landscaping could be simplified. The main area of concern was the streetwall frame. Ms. Drohan confirmed that the applicant's proposed solution would go a long way to improving the situation. She added that, given the changes in grade on this site, it might be helpful to extend some of the retaining wall toward the frame to give it more meaning.

Mr. Hancock recommended support of the application. He agreed with Ms. Drohan's comments about the frame element which he hoped could be developed to have a more three-

dimensional quality. He said he had some reservations about the stepping of the 10 ft. high retaining wall which he felt could be satisfactory with appropriate vine treatment.

Mr. Gjernes also recommended approval. He agreed the issue of the retaining walls should be investigated further.

Mr. Roodenberg supported the project. He supported lowering the frame element on Melville Street to better relate to its neighbours. He agreed with Mr. Hancock regarding the retaining wall, noting that how it is handled is a design decision.

Ms. Mingay also supported the application.

Board Discussion

In moving approval of the application, Mr. Rudberg commented it is refreshing to see a new office use proposal in the downtown, which is the first the Board has seen in a number of years. The location is ideal, given its transitional nature. He noted there is a fair amount of flexibility in the conditions and was satisfied good solutions to the issues could be achieved. He noted, however, that the Fire Department has not cleared the application due to access issues, which he assumed could be addressed without major redesign.

Mr. Beasley cautioned that a frame element in place of a streetwall is on the verge of becoming a cliché in Vancouver. He urged the applicant to try to make more of it than just a frame.

Motion

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

THAT the Board APPROVE Development Application No. 403460, in accordance with the Development Permit Staff Committee Report dated November 18, 1998.

6. OTHER BUSINESS

None.

There being no further business, the meeting adjourned at 8.45 pm.