

Date: Tuesday, October 12, 2004  
Time: 3.00 p.m.  
Place: Committee Room No. 1, City Hall

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**PRESENT:****Board**

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

**Advisory Panel**

B. Haden Representative of the Design Professions (Urban Design Panel)  
D. Chung Representative of the General Public  
K. McNaney Representative of the General Public  
C. Henschel Representative of the General Public

**Regrets**

J. Hancock Representative of the Design Professions  
J. McLean Representative of the Development Industry  
E. Mah Representative of the Development Industry  
G. Chung Representative of the General Public

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

R. Segal Development Planner  
S. Black Development Planner  
J. Barrett Development Planner  
S. Hein Development Planner  
A. Higginson Project Facilitator  
M. Mortensen Project Facilitator  
A. Di Nozzi Assistant City Surveyor  
K. Magnusson Projects-Engineering Services  
B. MacDonald Parking Engineer  
R. Whitlock Senior Housing Officer

**1285 West Pender Street**

N. Milkovich Nick Milkovich Architects Inc.  
S. Hawkes Nick Milkovich Architects Inc.

**125 Milross Avenue**

J. Perkins Jr. Perkins and Co. Architecture & Urban Design Inc.  
N. Bosa Bosa Development Corp.

**788 Richards Street**

S. Lyon GBL Architects  
P. Kreuk Durante Kreuk Landscape Architects  
H. Jasper Developer

Clerk to the Board: C. Hubbard

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## 1. MINUTES

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

THAT the Minutes of the Development Permit Board and Advisory Panel Meeting of September 21, 2004 be approved, with the addition of identifying T. Timm, Deputy City Engineer, as also being Chair of the meeting.

The following amendments were noted to the minutes of September 27, 2004:

- p.1: The minutes of *September 13, 2004* were adopted (incorrectly identified as September 21, 2004);
- p.8: Delete "park facing" from the new condition 1.4 for DE408563 (Building B & D).

It was also noted that for DE408503 (Building 6A) the motion should indicate that *all references* in the conditions to "15-storey" should be changed to "15- or 16-storey"; and the motion for DE408563 (Buildings B & D) should indicate that *all references* to "24-storey" should be changed to "24- or 25-storey".

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

THAT the Minutes of the Development Permit Board and Advisory Panel Meeting of September 27, 2004 be approved as amended.

Mr. Scobie commented that it is evident the previous four Development Permit Board meetings were well chaired during his recent absence.

## 2. BUSINESS ARISING FROM THE MINUTES

None.

## 3. 1285 WEST PENDER STREET - DE408570 - ZONE DD (COMPLETE APPLICATION)

Applicant: Evergreen Building Ltd.

Request: Addition of four storeys to an existing 10-storey mixed use building at the above-noted address, alteration of the parkade to construct four two-storey townhouses along W. Hastings Street, and conversion of existing office uses to residential uses (69 units total), save for a 4,701.7 sq. ft. Fitness Centre.

### Development Planner's Opening Comments

Ralph Segal, Development Planner, presented this application, referring to the Development Permit Staff Committee Report dated September 29, 2004, a context model and a project model. He briefly reviewed the immediate context of the site, which is at the end of the 1200 block West Pender Street, bounded by Pender, Hastings, Bute, and Jervis Streets, noting that when the Evergreen building was constructed in the early 1980s Hastings Street did not exist in this location. With respect to the proposal, staff and the Urban Design Panel are satisfied it is an appropriate response from a design point of view. It is considered to be a fairly modest

addition to an existing building and quite a neighbourly approach to the surrounding context. The design issues identified are considered to be fine-tuning and will not radically alter the scheme as proposed.

There is an issue relating to parking. The site currently provides 82 parking spaces, which may be able to be increased to 84 or 85. The developer considers an additional 20 spaces would be adequate (total 105). Staff recommend that 115 spaces be provided in accordance with the Parking By-law, with the shortfall of about 30 spaces located and secured off-site.

The Staff Committee recommends approval of the application, subject to the conditions outlined in the report.

#### Questions/Discussion

Mr. Beasley sought clarification regarding the amount of parking recommended by staff and how it compares to other high density, residential locations in the downtown core. Mr. Segal advised that staff concluded that 115 spaces is correct. Five spaces are to be allocated to the Fitness Centre on the ground floor and 110 for the 69 residential units. This equates to about 1.7 spaces per dwelling unit. Mr. Beasley commented it is not unusual to consider support for relaxations for existing buildings. Mr. Rudberg advised staff are prepared to consider a relaxation from the requested 115 spaces, per the Parking By-law, to 105 proposed, provided the developer provides some clear rationale, including options such as car co-ops.

In response to a question from Mr. MacGregor concerning the proposed addition, Mr. Segal confirmed it accommodates eight residential units (two units per floor). The proposal would still be parking deficient without the upper addition, due to the conversion of the existing building from commercial to residential use and the addition of four townhouses at the base. Nick Milkovich, Architect, advised that all the suites in the upper addition are over 1,000 sq.ft., requiring two parking spaces per unit.

Mr. Scobie noted the existing Evergreen building, before conversion of use, is already parking deficient based on current Parking By-law standards which would require 98 parking spaces, as stated in the staff report.

Mr. Rudberg sought confirmation that the developer understands a City sewer is required to be relocated at the developer's expense, with the cost estimate to be in excess of \$400,000. Mr. Rudberg also noted that Hastings Street has been approved by Council as a streetcar route to Stanley Park and he questioned whether this is identified in the conditions. Mr. Segal explained the applicant is aware of the need to allow for the streetcar in the streetscape design but there is no requirement to inform future purchasers.

Mr. Beasley noted that Council has instructed staff to work with owners of existing buildings on Cordova and Hastings Street to retrofit their building bases to provide a better domestic interface with the street, given these are now "front row" streets. Mr. Segal said while this Council policy is not referenced in the Staff Committee Report, the domesticity being sought is achieved with the addition of townhouses at the base of this building. It was noted that this Council policy also allows for consideration of density bonuses and parking relaxation for meeting this goal.

Mr. Henschel sought clarification regarding a letter dated October 7, 2004 from the Barristers representing the structural designer of the original building (circulated to Board and Panel members and on file). The letter raises questions about copyright infringement and the structural integrity of the building with the proposed alterations. Mr. Scobie noted the

Development Permit Board does not consider the structural attributes of buildings in its deliberation of development applications. These are matters dealt with under the Building By-law and addressed through the Building Permit Application which follows development permit approval and issuance. It is therefore outside the purview of the Development Permit Board. The Board members concurred it is clearly a Building Permit issue.

Bob MacDonald, Parking Engineer, addressed the parking issue. He noted the building does not meet existing standards for commercial use, being about 12 spaces deficient. If the building were to be converted to residential, without the additional residential floors, the requirement would be about 99 spaces (16 spaces less than proposed). Given most of the units are larger than average and it is a high-end building, Mr. MacDonald said he believes they may need the requested amount of parking to capture the intended market, regardless of Parking By-law requirements; however, Engineering Services concludes there may be some merit to giving some relaxation, and co-op car spaces is a good option.

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

Mr. Milkovich said they concur with most of the conditions recommended by staff and he said the review by the Urban Design Panel was very useful. He advised the parking issue is currently being studied and investigations are underway to locate at least 20 off-site spaces. He requested amendment to condition 1.1 to reduce the number of required spaces from 115 to 105 and confirmed they will provide a rationale to support this request.

In response to a question from Mr. Beasley about the condition calling for reconsideration of the rooftop trees and overhanging vegetation, Mr. Milkovich said they agree these are inappropriate.

Mr. Milkovich agreed they can consider providing car co-op spaces.

Regarding the sewer relocation, Mr. Milkovich confirmed the owner understands it is a requirement and will be at the developer's cost.

Mr. MacGregor sought clarification about the rationale for the 4-storey addition, commenting that it appears out of place on this stepped building. Mr. Milkovich explained the existing building has an FSR of 4.9 and the proposed addition is a means of increasing the density to the currently allowable 6.0 FSR, without intruding on the original design. He noted it was originally designed as an extension of the escarpment, which they did not wish to change, so the rationale was to add something lighter and different than the existing building to preserve its image.

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

Rick Page read a short passage from the Bible.

Marek Klimick, 1238 Melville Street, questioned why he had not been able to obtain copies of requested material relating to public realm treatment. Mr. Mortensen confirmed that Mr. Klimick's response to notification was acknowledged and his concerns were included in the notification summary in the report. The Clerk confirmed the Staff Committee Report was posted to the City's website on October 8, 2004 and hard copies of the report were available late Friday afternoon. Mr. Segal advised the Triangle West Streetscape manual is an implementation document for the use of City crews. The Downtown Design Guidelines and Downtown Character Area Descriptions referred to in the report are publicly available documents and may be viewed on the City's website. Retail is a permitted use on this site, in accordance with the zoning. Mr. Beasley explained that there are a few areas in the Downtown

where retail is required, some where it is prohibited and many others where it is optional. The latter applies to this site, in which case retail use can be considered.

In response to question from Mr. Beasley, Mr. Klimick said he was opposed to the addition of four storeys because the Evergreen is a landmark building and it will detract from the original design. The proposed addition is too massive and does not respect the stepped form of the original building.

Brian Shpak, 1238 Melville Street, referred to his letter dated October 7, 2004. In response to a request from Mr. Shpak, Mr. Mortensen confirmed that he will provide a copy of the Triangle West Streetscape manual to Mr. Shpak and Mr. Klimick. With respect to the parking allocation, Mr. Shpak said he believes three stalls per unit should be provided for this building. He noted that 6.0 FSR is a discretionary maximum for the site, and the Evergreen is the most recent heritage building in Vancouver that should not be destroyed. An addition would be acceptable provided it maintained the stepped form of the building. Mr. Shpak expressed objection to what he considers to be "spot zoning" in this block. He stressed the need for a neighbourhood plan and distributed copies of title searches conducted on properties in the 1200 block West Pender, suggesting that five will be redeveloped within the next five years. He urged the City to contact the property owners to ascertain their future development plans. Mr. Shpak then distributed copies of a June 10, 2004 Judgment of the Supreme Court of Canada which he said indicates that the scope of immunity formerly enjoyed by the City of Vancouver is no longer unlimited. He also distributed copies of a notice to commence litigation against the City. (Copies of Mr. Shpak's documents are on file)

David Thom, IBI Group, advised that his firm has occupied the 7th floor of the Evergreen building for a year, and they object to this application. He said their lease provides them with the right to occupy the space for another ten years. The space is unique, there is no comparable space elsewhere in the city and they have no intention of leaving. Mr. Thom expressed concern that by considering this development application, the Development Permit Board is ignoring the rights of existing tenants.

Mr. Scobie noted that the Board assesses whether or not proposals comply with the City's zoning and land use by-laws and guidelines and, if approved, applicants may then proceed to a Building Permit application. Neither permit entitles an owner to develop if there are other constraints that exist, and any such constraints are not within the purview of the Development Permit Board. Mr. Thom confirmed that he understood this position. Mr. Beasley added that he is very sympathetic to any tenant in this situation. It is clear, however, that permit approvals do not take precedence over a tenant's legal tenure, which has to be resolved between the landlord and tenant before the owner can take advantage of any permit approvals. In response to a question from Mr. Beasley about the proposed conversion, Mr. Thom said there are many reasons the office space works very well for his firm and he noted that most of the employees walk to work. The broader issue is the continued conversion of office space into condominiums, noting that encouraging people to live downtown has been very successful. However, it may have gone too far because a balanced downtown includes employment, and in this particular area that balance has shifted dramatically. He noted that the people who work in the building currently contribute considerably more to the economy of the neighbourhood than will the residents of 69 units.

In response to a question from Mr. Rudberg with respect to Council policy on office/residential conversions in the downtown, Mr. Scobie confirmed that Council considered the subject conversion on June 24, 2004 and supported it, subject to conditions as may be applied by the Board in its deliberations.

Glenn Munro, President of the Palladio Strata Council (1228 West Hastings Street), said the proposal changes the Evergreen in a way that is objectionable and it will have a significant impact on Palladio. Palladio currently faces the easterly concrete wall of the Evergreen, and the proposed addition will worsen the situation. Mr. Munro suggested that a new development on this site would be a taller, slender building which would cause them less impact. He said the proposal is very unfriendly to Palladio. Mr. Munro was also concerned about the structural integrity of the building with the proposed addition.

Questioned by Mr. Beasley about his preference for the site if it were developed to its full allowable density, Mr. Munro advised he did not think the building should be altered and he would prefer an architectural solution that retains its original design. Mr. Segal explained the easterly façade of the Evergreen is very close to the property line which precludes the addition of windows. Additional fenestration may also be inappropriate for privacy reasons, given the Palladio is only 100 ft. to the east. Mr. Segal also noted that the living rooms on the Palladio's west elevation are oriented towards Jervis Park rather than directly to the subject site. Staff concluded that any addition to the Evergreen should be as low as possible thereby affecting as few Palladio units as possible. Mr. Segal added, there may be ways to improve the articulation of the easterly blank wall, although sometimes simplicity is the best approach. With respect to the site to the immediate east of the Evergreen and west of Palladio, Mr. Segal advised its development potential is seriously compromised by its small size (66 ft.) and the ability to provide parking. It is therefore anticipated that the site may not achieve 6.0 FSR and it would not be a high rise development. It could perhaps be developed to six or seven storeys. Given a building on this intervening site might at best be developed to the height of the existing Evergreen building, Mr. Beasley questioned whether it would be possible to locate all or part of the eastern façade of the proposed addition further west which would permit additional glazing and a better outlook for Palladio residents. In discussion, a representative of the architect explained that the stair well in the proposed addition has to be continuous with what currently exists in the existing building, for safety reasons.

In response to a question from Mr. Scobie as to staff's preference, Mr. Segal said it would be for the building to remain as it is with townhouses added to the Hastings Streetscape and exploration of an HRA for possible disposition of any additional development capacity via transfer to other site(s). However, the zoning does permit consideration of what is being proposed and staff believe it is an acceptable proposition.

Murray Smith, legal representative of Dr. Bogue Babicki and Babicki & Associates Ltd., referred to his letter dated October 7, 2004. His clients object to the application based on what they believe is a copyright infringement with respect to the structural design of the original building. Noting the Chair's earlier response that this is a building permit matter, Mr. Smith said they consider it is a legality issue, not a structural issue, i.e., where there are clear legal considerations, of whatever nature, they are matters which should be considered by the Board in the overall exercise of its discretion. Mr. Smith advised his clients believe serious structural issues will arise from the proposal, affecting the original design. They believe the proposed addition will render the structure extremely vulnerable to earthquake shock, potentially resulting in partial building destruction and danger to life. Mr. Smith said there is also a process question arising from the Staff Committee Report because there is much more than the matter of parking to be resolved, as suggested by the Development Planner. As well, Mr. Smith noted the issues raised by the Processing Centre in Appendix C, which includes structural and seismic concerns, do not appear to have been addressed. Mr. Smith requested that the Board seek a position from the applicant regarding the legality and structural issues and to address the process issues.

Mr. Scobie explained that the issues raised in Appendix C are intended to be an early warning to the applicant of building permit requirements they will confront if the proposal achieves development permit approval as submitted. Response to such issues is not a requirement for obtaining a development permit, which requires only an acknowledgment that the applicant is aware of the issues being identified for the building permit stage. In response to a question from Mr. Beasley, Mr. Segal confirmed there are no structural drawings in the materials submitted for reviewing this application. Mr. Beasley thanked Mr. Smith for his advice which he said is a good cue for the applicant but will have to be considered by the official having jurisdiction at the building permit stage.

John Bamberger sought clarification as to public input into the next step in the process. The Chair explained there is no public input at the building permit stage and the Development Permit Board is charged by Council to make decisions on development applications.

#### **Panel Opinion**

Mr. Haden advised the Urban Design Panel concluded that if there is to be an intervention to a building of such high architectural integrity then the best approach requires some degree of courage. The Panel considered the overall massing is not out of context with the surrounding buildings and that the general strategy could be resolved in detail in a way that does not destroy the integrity of the original building. Mr. Haden said most of the issues have been addressed in the recommended prior-to conditions, and deal principally with careful detailing and transparency of the addition. Mr. Haden noted that his personal opinion differs somewhat from the Urban Design Panel's conclusion because he believes it would be better if the addition was smaller, noting the upper two floors are relatively expensive in terms of their net contribution to the city vs. their net diminishment of the architectural integrity of the building, notwithstanding that the site may have the potential to build to 6.0 FSR. Mr. Haden said, however, that if the Board considers 6.0 FSR is appropriate and feasible, then the fundamental solution proposed is appropriate. Mr. Haden said he was sympathetic to the issue of conversion of commercial to residential use, which he noted has been addressed in other forums. With respect to the parking, Mr. Haden said that in general he would prefer to see less parking rather than more. He also noted it is difficult to mandate off-site parking and it effectively reduces the flexibility of parking in the surrounding area. With respect to the Urban Design Panel's recommendation to reduce the planting on the building, the Panel thought there should be a visual differentiation of the addition. Minimizing the planting would also affect the perceived height of the building and increase the visual lightness of the addition. In summary, Mr. Haden advised the Panel found the proposal to be acceptable but he would personally be more comfortable if the addition were reduced by one or two storeys.

Mr. Henschel said he was not comfortable supporting this application. The added four storeys are ungainly and seem to be kept unnaturally low. He suggested it might be better if the addition was narrower and to add a fifth floor to achieve a more slender and better integrated composition. With respect to parking, Mr. Henschel recommended that the applicant investigate such things as parking machines and the inclusion of spaces for "Smart cars"; more on-site parking is preferable to off-site parking. Mr. Henschel said he believes the application should be deferred until a more sculptural solution is found; otherwise the applicant should be encouraged to seek a heritage density transfer off-site rather than altering the Evergreen which is a modern heritage building.

Mr. McNaney was also not comfortable recommending approval, despite Council policy and the zoning. He said the addition of four storeys is detrimental to the building, although one or two may be acceptable. He strongly opposed the amount of parking being recommended by staff, and questioned whether the current design provides enough street animation. With respect to

the eastern façade, Mr. McNaney said it is not very neighbourly and urged that there be a better architectural response on the addition and to improve the easterly façade of the existing building. In summary, he said he did not support the additional four storeys but supported the conversion to residential and the addition of the townhouses.

Mr. Chung did not support the addition because it is too bulky and destroys the stepped design of the original building. He suggested a better solution might be to sculpt the additional storeys, in a slimmer, stepped form. With respect to parking, Mr. Chung said he believed 115 spaces would be sufficient. He also thought the treatment of the easterly façade should be improved.

#### Board Discussion

Mr. Beasley said he shared a number of the concerns that have been raised. While he appreciated the points raised about the legal and structural issues, these are dealt with at another point in the process and other officials are charged to deal with them. Including a list of items expected to be addressed at the building permit stage, as contained in Appendix C, is simply to give the applicant advance notice. Mr. Beasley added, it is prudent for the applicant to deal with the issues raised if the project proceeds, but said he concurred with the position stated earlier by Mr. Scobie that it is outside the Board's purview. Mr. Beasley said the tenancy issue raised by Mr. Thom is of serious concern and he advised the applicant that if it is not dealt with it will be difficult to proceed with any development, noting there is nothing in a development permit approval/issuance that overrides the rights of a tenant. When Council considered the conversion of use from commercial to residential and heard Mr. Thom's concerns, it also indicated the tenancy issue is a business matter between the landlord and tenants. Mr. Beasley said it would be prudent for the applicant to address the matter and he expressed surprise that the landlord has not done so to date.

With respect to the proposal itself, Mr. Beasley said two important considerations are the aesthetic judgment of the original architect of the building and the aesthetic judgment of the Urban Design Panel. Both judgments were that some form of addition to the top of the building, of a light and lantern-like character, was consistent with the architectural integrity of the rest of the building. Mr. Beasley said he was not convinced there is no form that will work, particularly given this is one of the more modestly scaled buildings in the vicinity. He supported the position that parking in the Downtown Business District does not have to be the same as elsewhere because a higher proportion of people will walk. He concurred with Mr. Rudberg's earlier comment that with some meaningful rationale provided by the applicant, including consideration of alternatives such as car co-op spaces, some degree of parking relaxation should be entertained. Mr. Beasley said he was very sympathetic to the concerns raised by the residents of the Palladio with respect to the easterly façade which he agreed is very unneighbourly. While it is partly a short term circumstance until development of the intervening site to the east, where a new building would abut against the Evergreen at the lower levels, it would not extend to the full height of the Evergreen as currently proposed. The easterly façade is not acceptable to the neighbour and it needs significant design development at the higher elevations, noting also that this building has unusually wide blank walls, over half of which is necessary. Mr. Beasley suggested there could be a significant redesign, pulling the proposed building addition back from the easterly property line and adding glazing to create a much more typical façade relationship for the neighbours to the east.

Overall, Mr. Beasley said he believed there are too many issues to approve the proposal as a complete application because the net effect of the conditions, both those recommended by staff and any added by the Board, suggests a significant redesign. He said he would therefore



only consider approving the application in principle, with a complete application returned to the Board. He moved approval in principle with amendments to conditions 1.1 and 1.2 and an additional condition 1.7. Mr. Beasley added, his recommendation tries to balance the reasonable expectations of a developer to be treated fairly in developing this site with the reasonable expectation of any member of the public that adjacency issues will be addressed.

Mr. MacGregor did not agree the application should be dealt with as a preliminary. He was not prepared to second Mr. Beasley's motion. He said there are three issues: 1. the use conversion, which Council has supported, 2. the additional storeys, and 3. parking. Without the additional storeys, the parking is not an issue. Mr. MacGregor said he could not support the addition of four storeys for eight units because it impacts what is an iconic building, although he may be able to consider one additional floor. Mr. MacGregor said he did not believe a land owner necessarily has the right to achieve the maximum FSR on this site unless it is an entirely new building. In this situation there are a number of constraints. Mr. MacGregor said he agreed with a delegate who referred to the proposed building addition as objectionable and not friendly. He said he appreciated the advice of the Urban Design Panel but he did not support the proposal at all. He said he would be prepared to deal with the application, as a complete, with amendment to condition 1.1 and 1.2, to maximize parking within the building and to limit an addition to one storey.

Mr. Rudberg agreed with Mr. Beasley that the proposal should only be considered as a preliminary application because there are too many unresolved design issues. He said he could support a one- or two-storey addition with some re-massing and redesign but could not support anything more than two storeys. He agreed the Evergreen is a unique and notable building in the downtown core. He also suggested that treatment of the easterly façade of the addition could be addressed in a preliminary application. He agreed with Mr. Beasley's recommendation with respect to the parking. Mr. Rudberg also noted that Council has approved the routing of a streetcar by this site at some time in the future and this will need to be taken into account in the design of the Hastings Street façade.

Mr. Beasley said that without a redesign he could not tell which option is correct - whether it is a 1 to 4-storey addition or a 5-storey addition, much thinner and set back so that it can be properly glazed and create a good relationship to the neighbours. He said he was not convinced there is no solution that might be significantly narrower but slightly higher given the Evergreen is not a high building in this context.

Mr. Rudberg said he was unable to support Mr. Beasley's position and could not second his motion.

Mr. MacGregor moved approval as a complete application, with amendments to the conditions to allow a one-storey addition. This was not supported by Mr. Beasley or Mr. Rudberg.

During subsequent discussion in search of a decision that two - if not all three - voting Board members could support, Mr. Beasley was not prepared to support a level of specificity with respect to the height. Mr. Rudberg said he would support a one- to two-storey addition and other amendments with respect to parking and treatment of the upper easterly façade. In discussion, Mr. MacGregor advised he could support Mr. Rudberg's recommendation for one- to two-storeys provided it is approved in principle, as a preliminary application.

**Motion**

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

THAT the Board APPROVE IN PRINCIPLE the concept of developing this site as generally outlined in Development Application No. DE408570, for the addition of up to two storeys to an existing 10-storey mixed use building at the above-noted address, alteration of the parkade to construct four two-storey townhouses along West Hastings Street, and conversion of existing office uses to residential uses, save for a 4,702 sq.ft. Fitness Centre, all subject to the following conditions:

Amend 1.0 to read:

*Prior to submission of a complete application and a final decision, revised drawings and information shall be submitted to the satisfaction of the Director of Planning, clearly indicating;*

Amend 1.1 to read:

*provision of the by-law required parking spaces or a reduced amount based on a sound rationale submitted by the applicant, to the satisfaction of the Director of Planning in consultation with the General Manager of Engineering Services;*

Amend 1.2 to replace "4-storey" with *any upper storey addition*;

Amend the Note to Applicant in 1.2 to add: *The glass colour of the addition should be as transparent as possible given consideration of energy efficiency;*

Add 1.7:

*design development to the southeast façade of the building to be more neighbourly to people to the east, in consultation with residents in the Palladio to the southeast;*

*Note to Applicant: The redesign should have regard for the expected form of adjacent future development on the adjoining site to the southeast.*

Amend 2.0 to read:

*That the standard conditions set out in Appendix A be met prior to submission of a complete application;*

Amend 3.0 to read:

*That the complete application be dealt with by the Development Permit Board;*

Amend the preamble in Appendix A to read:

*The following is a list of conditions that must also be met prior to submission of a complete application.;*

Add B.2.5:

*This site is adjacent to future transit facilities including street car.*

CARRIED  
(Mr. Beasley opposed)

The Board took a 5 minute recess at 6.30 p.m.

4. 125 MILROSS AVENUE - DE408609 - ZONE CD-1  
(COMPLETE APPLICATION)

Applicant: Perkins & Co. Architecture & Urban Design Inc.

Request: To construct a 22-storey residential tower on a 3 to 5 storey townhouse/apartment base, with a total of 167 dwelling units, over two levels of underground parking for 278 vehicles.

**Development Planner's Opening Comments**

Jonathan Barrett, Development Planner, presented this application for the last project of the CityGate development. The site was rezoned from M-1 to CD-1 March 2004 and included a new lane linking Prior Street and Milross Avenue. Staff recommend five design conditions, all of which relate to architectural character and refinements. There are no substantial issues. Staff consider the application is in the spirit of the rezoning and it successfully completes the CityGate development up to the viaduct. Subject to the conditions outlined in the Staff Committee Report dated September 29, 2004, the recommendation is for approval.

**Questions/Discussion**

With respect to the Note to Applicant in condition A.1.14, Mr. Beasley questioned the need for security fencing, noting that other conditions call for the courtyard to be secure. Mr. Barrett confirmed that Social Planning staff have agreed that the request for security fencing can be deleted.

Mr. Rudberg sought clarification regarding condition A.2.3 which calls for removal of landscaping. Karyn Magnusson, Projects-Engineering Services, explained Engineering Services seeks removal of all landscaping within the lane area. She agreed it would be possible to work some low maintenance landscaping into the design of the lane. In discussion, Ms. Magnusson agreed that Engineering Services could explore the inclusion of some landscaping on the properties abutting the lane provided it still enables access to the site. Mr. Rudberg added, higher maintenance landscaping could be dealt with through an encroachment agreement. The intent is to ensure it is maintained and that it is located in a way that allows access to the adjoining properties.

Mr. Scobie noted the Waste Management Act has now been superseded by new legislation and for future reference the advice being given by the Environmental Protection Branch should be updated.

Mr. Rudberg noted the Staff Committee comments refer to the skateboard park under the viaduct. He recommended that there be a consistent policy about notation of issues such as this on development permits issued.

**Applicant's Comments**

Nat Bosa, Bosa Development Corp., requested the City to deal with the unsightly car impound area currently under the viaduct. Mr. MacGregor explained this lot is used for vehicles under investigation by the Police. An alternative location is being sought. Mr. Bosa said he would undertake to move the vehicles if a new location is identified. Mr. Rudberg commented that this situation highlights the need for locations in the city to accommodate these kinds of necessary functions, noting that, to date, the location under the viaduct has worked well. There are very few places in the city where such functions can work.

John Perkins, Jr., Architect, said he looks forward to working with staff to improve the project with the recommended conditions. In response to a question from Mr. MacGregor, Mr. Perkins confirmed that rooftop landscaping will be provided throughout the project.

#### Comments from other Speakers

None.

#### Panel Opinion

Mr. Haden said the recommended conditions are an accurate reflection of and addressing the minor issues raised by the Urban Design Panel. He added, the question of overlook from the viaduct is an important issue and recommended landscape design development, particularly to the rooftop along Prior Street, to reflect in some way the scale of the viaduct. The Panel also thought the landscape bulge on Quebec Street could be improved. Mr. Haden recommended approval.

Mr. Chung and Mr. McNaney also recommended approval with the conditions outlined in the Staff Committee Report. Mr. Henschel agreed it is very supportable. He added, the viaducts are very awkward and need to be lowered to ground level.

#### Board Discussion

Mr. Beasley said it is a good project and he appreciated the way the base is being treated. He moved approval of the application with minor amendments to the conditions proposed by staff.

Mr. MacGregor agreed that this is a good development and said he was pleased to see this site next to the viaduct be developed. Mr. MacGregor cautioned the Board about noting the existence of the skateboard park and future street car on the development permit because it is not possible to identify everything in the vicinity which may be disruptive and it may create an unrealistic expectation. He noted the skateboard park was approved after public consultation with surrounding residents.

#### Motion

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

THAT the Board APPROVE Development Application No. 408609, in accordance with the Development Permit Staff Committee Report dated September 29, 2004, with the following amendments:

Amend the Note to Applicant in 1.5 to add, after "and Prior Street": *(also acknowledging the viaduct overlook)*;

Amend the Note to Applicant in A.1.14 to delete the first sentence;

Amend A.2.3 a) to read:

*redesign of the landscaping shown within the lane dedication to allow access for Main Street properties from the lane, and provision of additional street trees, to the satisfaction of the General Manager of Engineering Services;*

Amend A.2.3 c) to read:

*arrangements for maintenance of the non-adjacent off-site landscaping on the north side of Prior Street, within Prior Street to the east of the site, and within the north-south lane;*

Delete the Note to Applicant after A.2.3 c);

Add a new B.2.4:

*The use of this site acknowledges the location of the skateboard park across the street and that there will be a future street car route along Quebec and Prior Streets.*

Re-number B.2.4 to B.2.5.

5. **788 RICHARDS STREET - DE408641 - ZONE DD  
(COMPLETE APPLICATION)**

Applicant: Gomberoff Bell Lyon Architects

Request: To construct a 29-storey mixed use building with four levels of underground parking, commercial, hotel and residential uses. Six levels of affordable housing are proposed to replace SRA units in the Passlin Hotel.

**Development Planner's Opening Comments**

Scot Hein, Development Planner, presented this application, noting it is the first initiative under discretionary zoning for a development strategy that replaces a 43-unit low-cost housing hotel with a new 46-unit facility. This is achieved through a density bonus of 75,000 sq.ft. Referring to the Staff Committee Report dated September 29, 2004, Mr. Hein noted the following corrections: Technical Analysis, p.5, Commercial FSR should be 5.00 and in the "Required" column, paragraph 2 of the Note to Applicant is deleted, and condition A.1.1 amended.

Mr. Hein briefly reviewed the site context. The proposed height is below the maximum allowable 300 ft. and respects a view cone affecting the site. The application seeks a relaxation of one class B loading stall which is supported by Engineering Services in conjunction with a lane management plan. On October 5, 2004, Council supported the proposed bonus density, as recommended by the Director of the Housing Centre. Staff are satisfied the site can accommodate the proposed density but recommend considerable design development with respect to how the various pieces of the scheme are resolved. It was noted the tower placement on the site allows the low-cost housing component to be distinguished as a separate presence on the northerly edge of the site. It is also offset from the Grand Hotel at 775 Homer Street. Mr. Hein briefly reviewed posted shadow diagrams, focusing on shadow impacts on properties on the west side of Richards Street. Included in the application is a proposal for a bridge over the lane to allow access from the Grand Hotel. This is supported by staff, noting a Lane Management Plan and improvements to the function of the lane are sought. Mr. Hein briefly reviewed the main prior-to conditions recommended by staff and contained in the report. Subject to satisfactory resolution of the conditions, the recommendation is for approval of the application.

**Questions/Discussion**

Mr. Beasley sought clarification regarding the request in condition 1.1 to delete the two-storey retail expression north of the tower entry. Mr. Hein explained the issue was whether or not the low-cost housing component needed to be fully distinguished as a building coming down to grade. He agreed with Mr. Beasley that the retail use is important in this location and the condition can be amended accordingly.

With respect to the lane, Mr. Beasley noted the proposal indicates a "back of house" treatment for the lane facade, which is not in keeping with the adjacent Grand Hotel which was required to provide a front façade treatment for its lobby area off the lane. Mr. Hein concurred and tabled a new condition 1.13.

In response to a question from Mr. Rudberg with respect to the size of the proposed grocery store, Mr. Hein advised it will be about 16 - 20,000 sq.ft. Loading for the store will take place off the lane. In discussion, Stuart Lyon, Architect, advised the 41,000 sq.ft. retail space noted in the Technical Analysis includes an erroneously labelled second floor retail component.

Mr. Rudberg questioned the request in condition 1.6 to provide improved surface treatment in the lane. Mr. Hein advised part of the lane is already improved adjacent to the Grand Hotel and the condition seeks to extend that treatment, noting there is also some overlook from the podium. Given the congestion already in this lane relating to the hotel and the theatre, Mr. Rudberg said he believes it may not be appropriate to encourage people to cross the lane at grade. He was also not convinced the surface treatment should be improved given the amount of truck traffic in the lane and the desire to discourage pedestrian use.

In response to a question from Mr. MacGregor with respect to the amount of density bonus being sought, Mr. Hein confirmed the total additional floor area on the site amounts to about 100,000 sq.ft. (75,000 sq.ft. density bonus plus 25,000 sq.ft. of low-cost housing conveyed to the City), as approved by City Council.

Mr. Scobie sought clarification with respect to the parking allocation, noting the number of commercial spaces exceeds the by-law maximum. Mr. Hein confirmed that Engineering Services supports the designation of surplus commercial spaces to residential visitor spaces for this site.

Rob Whitlock, Sr. Housing Officer, provided some clarification regarding the housing agreement, in response to a question from Mr. Scobie. An agreement is being sought in this case in order to establish terms early in the process given the length of time between permit approvals and the actual conveyance of the housing units to the City.

Mr. Scobie noted the dependency of the proposed hotel units on the Westin Grand for loading and other services but noted the units were designed as self-contained dwelling units. He asked whether staff had considered the need for legal arrangements to tie the proposed units to the Grand Hotel.

Mr. Beasley said he also had some concern that the hotel units in this proposal could convert to residential use, noting a similar application required a legal agreement to ensure the units are only used and managed as hotel use. Hank Jasper, Developer, said he appreciated the concern and noted the intent is now to provide 40 hotel units, all with minimal kitchen facilities similar to that currently provided in the Westin Grand. Mr. Beasley noted the Director of Legal Services is currently considering a by-law amendment which clarifies the matter and until this occurs it is recommended that a legal agreement is obtained.

**Applicant's Comments**

Mr. Lyon responded to some of the issues raised in the foregoing discussion. With respect to the proposed lane bridge, Mr. Lyon explained the intent is that the Westin Grand will have control over the hotel rooms in this development. Hotel guests will enter the Westin Grand lobby and be escorted to their rooms via the bridge. He noted that while the number of hotel rooms may increase from that indicated in the proposal, it will not alter the FSR. There is also an elevator dedicated to the hotel use adjacent to the residential lobby on Richards Street which would allow another hotel operator to take control of the units if the Westin Grand is no longer involved.

Mr. Lyon said they are generally satisfied with the recommended prior-to conditions and will be pleased to work with staff on their resolution. He sought amendments to condition 1.1, 1.2 and 1.3. With respect to A.2.19, Mr. Lyon noted that banners are signage which is typically allowed over City property. Mr. Rudberg explained this is dealt with under a separate process and it is therefore appropriate to delete it from this application.

With respect to the parking, Mr. Jasper advised there is demand for more parking on the commercial component, noting that other developments in the area have achieved a higher level of parking. In discussion, Mr. Rudberg suggested that the amount of parking be reduced to an amount to be determined in consultation with Planning and Engineering Services. Mr. MacGregor added, the theatre use in this area should also be taken into account when considering the parking issue.

In response to a question from Mr. MacGregor regarding the proposed lane bridge, Mr. Hein confirmed it will also require Council approval.

**Comments from other Speakers**

John Bamberger, former tenant of the Passlin Hotel, expressed support for the application but with reservations. He was concerned about the overall design and thought more effort should have gone into the design integrity. He also objected to the lack of balconies on low cost housing projects. With respect to the bonus density in exchange for the low cost housing, Mr. Bamberger said the developer was not obliged to purchase the Passlin Hotel. He suggested the developer's profit is 300 percent on the low cost housing, which eventually will be paid for by the future tenants. Mr. Bamberger contended there is a discrepancy in the number of SRA units to be replaced, there being eight more existing units than indicated in the proposal. The developer should therefore be providing 54 units to accurately reflect the number of units lost. He also said there is a perception that the City staff are controlling the process and working on behalf of the developer and recommended the public be involved earlier in the process.

With respect to the development application process, Mr. Scobie stressed that it is controlled by City staff for managing proposals and their assessment against the City's zoning and policies. Project Facilitators and other City staff work on behalf of the City, developers and the general public in processing applications.

With respect to Mr. Bamberger's concerns about how the density bonus is calculated, Mr. MacGregor noted this issue has already been addressed by Council. Mr. Beasley added he has reviewed the analysis and is satisfied with the conclusions. Board members expressed concern about unsubstantiated suggestions of impropriety on behalf of staff and urged that if there is any evidence of such it should be taken up with the staff supervisors. Mr. Beasley said he was confident that staff are working on behalf of all the citizens. With respect to the number of SRA units, Mr. Whitlock explained the Passlin Hotel had 43 licensed units, which was the basis of the negotiation for 46 units. Units in the adjacent building referred to by

Mr. Bamberger are not licensed and are not governed by the SRA by-law. Staff and Council are satisfied with the number of units being replaced.

Fred O'Hagan and Kerry Williams, Kingston Hotel, 755-757 Richards Street, advised the proposed development will have a significant impact on their property in terms of shadowing, particularly in the morning. Mr. O'Hagan suggested that shadow studies should have been provided for the summer months and in winter months when their sidewalk patio is also an essential element of their hotel's viability. He urged that the north and south podiums be set back to improve light penetration on the street. He said they were also concerned about the location of the hotel entrance of Richards Street which they would prefer to be located near the Robson entrance, and requested more landscaping on Richards Street.

Mr. Hein advised the City typically tries to achieve a four-storey streetwall on downtown streets. In this case, there was also a conscious effort to set the building back at the fifth and eight floors. He briefly reviewed the shadow analysis and noted it is appreciated there are some impacts, noting, however, that the shadowing does increasingly improve after about 12.45 pm during the summer months. Mr. Beasley expressed concern that the shadowing caused by the Grand Hotel is not shown in the analysis, which makes it difficult to accurately discern whether it is the higher streetwall that is causing the shadowing. He said his sense was that the Grand is already causing shadowing in the morning. However, it is clear there is shadowing created by a number of buildings and the shadow analysis needs to be done in greater detail and the results shared with Mr. O'Hagan. In further discussion, Mr. Hein noted that stepping the podium element back more than the current 13 ft. would start to compromise the project's open space although there may be opportunity to adjust the top three floors to improve the leading edge condition of the podium. Mr. Lyon said they would provide a more detailed shadow analysis at different times of the year, with the full context in place, to determine exactly what is occurring before going to any extraordinary efforts on adjusting the podiums which could have serious implications on the architecture.

#### **Panel Opinion**

Mr. Haden advised the application was unanimously supported by the Urban Design Panel and the recommended prior-to conditions accurately reflect and address the Panel's commentary. With respect to the low-cost housing component, Mr. Haden said the preference would be for high quality materials and visual differentiation; otherwise, high quality materials without differentiation, noting that if it is not possible to achieve the highest quality it would be better if the building blended in. He noted that balcony detailing unfortunately tends to be of substantially poorer quality in low-cost housing, which then clearly identifies it as a low-cost housing project. With respect to the lane, Mr. Haden said the Panel did not suggest that pedestrians should be encouraged but recognized it was an existing active use of the hotel and the back of this building needed to respond to it. The bridge over the lane was strongly supported by the Panel. Mr. Haden added, the bridge will also ensure the hotel rooms are less likely to be anything other than affiliated with the hotel. The shadow issue is difficult to judge without more extensive diagrams. Mr. Haden suggested there should be some flexibility to review shadowing without being prescriptive, noting the main challenge is the amount of density on the site. He ventured there is probably not a way, without a substantive and onerous shift in the current design, to address the issue. He recommended approval of the application subject to the conditions.

Mr. McNaney said it is a great project and a good massing solution for dealing with the large amount of density on the site. He concurred with Mr. Haden that architecturally differentiating the low-cost housing is not appropriate unless it is a high quality design.



Mr. McNaney strongly opposed excessive parking on this site given it has good access to public transportation. He recommended approval.

Mr. Chung supported the inclusion of French balconies in the low-cost housing component, as suggested in condition 1.2. With respect to the shadowing, he said he did not believe the podium should be pulled back, although some minor sculpting may help. He recommended approval of the application.

Mr. Henschel said it is a very handsome project and the massing works well. He recommended amending condition 1.6 to require the under-grounding of all utilities in the lane. He agreed the south elevation of the tower is quite bland and suggested the introduction of a second colour or texture would add some definition. He supported the bridge in the lane. He recommended approval.

#### **Board Discussion**

Mr. Rudberg said he was encouraged to see how additional density can be accommodated for affordable housing, which is a good public objective, and he suggested there may be other locations where a similar initiative could be pursued. With respect to the shadowing issue, Mr. Rudberg said he did not wish to be prescriptive but if some measurable improvements can be achieved through minor adjustments to the massing, it would be appropriate. He did not believe the under-grounding of utilities should be required, as recommended by Mr. Henschel. Mr. Rudberg said that, overall, this is a good development that achieves a number of worthy public objectives in this area.

Mr. Beasley stated that this proposal is an extraordinary measure on the part of this applicant to deliver fully completed social housing units, and the actual number is not relevant provided the analysis shows it is an equal trade off for the value normally expected in the SRA by-law for compensation for removal of units. Mr. Beasley added, Council was convinced it was an extraordinary measure that would provide much needed low-cost housing. He said the form of this development is quite good and is a well articulated building. He appreciated Mr. Rudberg's amendment to 1.1 to further refine the setback of the lower massing on the west side because it can probably lead to improved performance, without being specific as to the amount of improvement. He stressed that more complete shadow diagrams should be provided by the applicant and reviewed with the Kingston Hotel owners. He urged that all shadow analysis provided to the Board on future applications include all the buildings in the vicinity.

#### **Motion**

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

THAT the Board APPROVE Development Application No. 408641, in accordance with the Development Permit Staff Committee Report dated September 29, 2004, with the following amendments:

Amend the Note to Applicant in 1.1 to delete the first sentence and add a new sentence to the Note to Applicant: *Further analysis of the shadow impacts including those generated by the Westin Grand Hotel and during the summer months, and further that consideration be given to adjustments of the southern massing (less than five feet movement to the east) if this results in improvement to the shadowing of the public realm on the opposite side of Richards Street;*

Amend the first sentence of the Note to Applicant in 1.2 to read: The introduction of private open space for *as many of the units as possible* is necessary (French balconies are supportable);

Amend the Note to Applicant in 1.3 to delete "combined with the introduction of a secondary material" from the first sentence;

Amend 1.6 a) to add, after "lane": *for the entire length of the site*;

Amend the first sentence of the Note to Applicant in 1.6 b) to delete "improved surface treatment to match the existing lane portion to the south";

Amend the Note to Applicant in 1.9 to add: *Any construction of the bridge requires City Council approval or an encroachment agreement*;

Amend 1.11 to read:  
*design development to the proposed grocery storey tenancy to ensure retail continuity, maximum visual transparency for the Robson and Richards Street frontages and pedestrian interest*;

Delete the first sentence of the Note to Applicant in 1.11;

Add 1.13:  
*design development to achieve a more visually compatible relationship between the proposed lane elevation for the podium component and the adjacent Grand Hotel lobby and drop-off area*;

Add 1.14:  
*Arrangements to the satisfaction of the Director of Legal Services that the proposed hotel rooms will remain as such and not be converted to residential use*;

Add 1.15:  
*design development to reduce the number of parking spaces or to provide a rationale for retaining the increased parking, to the satisfaction of the Director of Planning in consultation with the General Manager of Engineering Services*;

Amend A.1.1 to read:  
*reduction of the overall floor area in accordance with the provisions of DD Area 'C' plus the bonus density increase associated with the low-cost housing component.*

## 6. OTHER BUSINESS

There being no further business, the meeting adjourned at 10.30 p.m.

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C. Hubbard  
Clerk to the Board

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F. Scobie  
Chair