

Date: Tuesday, November 6, 2017
Time: 5:00 p.m.
Place: Town Hall Meeting Room, City Hall

PRESENT:

Board

A. Law	Director, Development Services, (Chair)
P. Mochrie	Deputy City Manager
J. Dobrovolny	General Manager of Engineering
G. Kelley	General Manager of Planning and Development Services

ALSO PRESENT:

City Staff:

B. Aujla	General Manager, Real Estate Services and Facilities Management
A. Molaro	A/ Director of Planning, Urban Design and Sustainability
J. Greer	Assistant Director, Development Services
D. Wiley	Development Planner
A. Wroblewski	Project Facilitator
C. Joseph	Engineering

105 Keefer Street - DP-2017-00681 - ZONE HA-1A

Recording Secretary: Kathy Cermeno

1. MINUTES

None.

2. BUSINESS ARISING FROM THE MINUTES

None.

**3. 105 Keefer Street - DP-2017-00681 - ZONE HA-1A
(COMPLETE APPLICATION)**

Applicant: Merrick Architecture

Request: To develop a 9 storey mixed used building with one level Retail (1st floor) and 8 levels of residential (2nd to 9th floors) containing 111 dwelling units all over three levels or underground parking, having vehicular access from the lane.

Opening Comments

Mr. Bill Aujla, General Manager of Real Estate Facilities Management, noted that REFM engaged with the applicant to see if they could purchase the property or if Land exchange was viable.

Mr. Aujla noted that discussions between the two parties were held over a period of time however there was no conclusion on the transaction, a deal was not made.

Following a question from Mr. Kelley,

Mr. Aujla noted that prior coming to this conclusion the applicant was very engaged and willing in their discussions. They looked at many options and pursued talking to other parties (note: information in regards to the discussions between REFM and the applicant is confidential).

Ms. Law, Chair, noted at the meeting on October 30, 2017, a motion was made to staff to respond to a variety of questions from the Development Permit Board members. Anita Molaro, Assistant Director to Urban Design, was to speak to those questions.

Mrs. Molaro noted the responses to the questions have been grouped into the following 6 categories:

1. Legal:
2. Interpretation of guidelines and the word Urbanism
3. Clarity of the form of development
4. Uses
5. Status of the memorial Plaza and design
6. Consultation process and translation practices

Legal

The first question in this category, 'Does the board have authority to refer back to council?

Mrs. Molaro noted that the answer received from Law is no.

Mrs. Molaro noted the role of the Development Permit Board is set out in the zoning development bylaw, section 3.1.2, which states:

The Development Permit Board is authorized to carry out those functions delegated to the Development Permit Board by this By-law."

Mrs. Molaro noted this delegation of authority was made by council pursuant section - 565A - D of the Vancouver charter.

If a decision is delegated to the Development Permit Board by the zoning and development bylaw then the DPB must exercise that delegated authority. It would be a jurisdiction error to refuse to exercise that delegated authority to make a decision.

The second question in this category was in regards to the Scope and Latitude of the Development Permit Board on this particular application.

Mrs. Molaro noted there are a number of outright and discretionary provisions in the zoning. Outright provisions include dwelling, retail uses and cultural uses. In addition zoning has a right height provision of 90ft.

Mrs. Molaro noted the board only has the ability to speak on the discretionary aspects of the zoning. Including:

- Section 4.6, requires a rear yard setback for residential uses

- Section 4.2, frontage is limited to 7.6 meters

However,

- Section 5.1, specifically allows the Development Permit Board to relax the frontage and rear yard regulations providing they first consider the intent of the schedule and all applicable policies and guidelines.

Mrs. Molaro noted for these 2 regulatory relaxations, if the board agrees these requests are reasonable and acceptable, the rear yard relaxation (as noted in the staff report) facilitates appropriate massing response and strong street wall along Columbia St and the viability of these units' benefits from these relaxations.

In addition, the relaxation request for the flanking street frontage retail unit along Columbia St is also a reasonable request. This retail unit is appropriately fronting Keefer St and meeting the 25ft limiting frontage requirement, but having a greater depth on Columbia St.

Mrs. Molaro noted the Board also has discretion, within section 4.17, on external design;

Specifically, all new buildings require the approval of the Development Permit Board with the design of buildings to elevations facing streets, lanes, and adjacent buildings. The Development Permit Board may approve the design of such building provided they consider the following:

- *intent of schedule and all applicable policies and guidelines adopted by council,*
- *submission of an advisory group, property owner or tenant,*
- *the effect of new visible exterior surfaces on the architectural and historical cultural characteristics of the existing buildings on site and adjacent.*

Interpretation of guidelines and the word Urbanism

Mrs. Molaro noted the HA-1 guidelines state:

'Intervention in a historic urban environment requires a thorough understanding of history, culture and architecture of the place (i.e. urbanism), opposed to object buildings only Therefore, any contemporary architectural addition to the neighbourhood should be informed by Urbanism.

Mrs. Molaro noted in this context **URBANISM** refers to the design of the built environment. The guidelines ask that buildings are not to be designed as objects in isolation but are understood in the larger fabric of streetscape, storefronts, public open spaces, views, infrastructure and historic and modern buildings.

Mrs. Molaro noted urbanism requires an understanding of culture and history, including socio economic factors only in so far as they impact the historic and contemporary buildings of the neighbourhood.

Mrs. Molaro clarified the guidelines do not place responsibilities on new developments to respond and intervene on socio or economic factors rather respond to the built environment.

Clarity of the Form of Development

Mrs. Molaro noted the Board asked about the commercial ceiling height.

In the staff conditions, staff have recommended a consideration under, condition 1.2, to increase the ceiling height of the retail units from 14 ft. to 16ft, creating a more functional units and a successful public space in the atrium. The residential units already have limited clear ceiling heights, and the building is at its maximum of 90 feet.

Mrs. Molaro noted the Development Permit Board asked about condition 1.3 in the report, to improve the building's elevation by adding a more prominent corneous line.

A stronger corneous line better comply with the Ha-1 design guidelines and Urban Design Panel advice. The Development Permit Board has discretion to exclude the parapet from the height calculation up to a max of 2.2 metres to enable a stronger parapet expression.

Mrs. Molaro noted another question in this category was in regards to the continuous weather protection.

The proposal provides fabric awnings set into retail window bays which are consistent with council approved HA-1A q guidelines. The Historic Chinatown district Urban Design guidelines, does not seek continuous glass metal mantle canopies, instead awnings are expected.

Mrs. Molaro noted it is understood, in the proposal, the weather protection is not continuous; however a high quality weather protection will be achieved within the public realm.

Uses

Mrs. Molaro noted in this category the first question was about the Curation of commercial spaces. The board ask if the applicant could curate culturally appropriate uses?

Mrs. Molaro noted there are limited tools under the zoning the City can impose for specific tenancies. The City can only impose categories of tenancies but not a specific tenant.

Mrs. Molaro noted Planning has a work program underway where they are studying where Chinatown business legacies are, and how the City can ensure that their legacies remain.

Mrs. Molaro noted the second question was in regards to the use of community cultural space.

Mrs. Molaro noted that the community space is secured through the 219 covenant, which is a legal tool, and Development Permit board conditions. This will allow some flexibility in programming and satisfies the City that the space will be maintained as a community amenity.

Mrs. Molaro noted staff is looking to see if possible to offer the space to more than one community group. The community group or groups will sign a lease directly with owner.

Status of the memorial Plaza and design

Mrs. Molaro noted the Board asked how the building will impact the plaza and its redesign.

Mrs. Molaro noted the proposed building provides a backdrop to the plaza. Plazas tend to be more successful when they have definite boundaries and a sense of containment.

Mrs. Molaro noted Council endorsed a UNESCO Heritage site application. As part of the council report, council provided support for a redesign of the Keefer Memorial Square and reimagined it as a future gateway to Chinatown as a part of the North East False Creek Planning and Development process.

Mrs. Molaro noted the City may consider installation of a new plaque based on the HDC initiative and to commemorate the history of Chinese Canadians.

Consultation process and translation practices

Mrs. Molaro noted staff consulted with Planning, Public engagement and Law, and presently there are no Policies or Bylaws on language access or translation in public meetings.

Mrs. Molaro noted Public Engagement staff are now working on a new language access policy and how to best improve language accessibility for all.

Board Discussion

Mr. Dobrovolny noted he did not support staff recommendations and moved to refuse the development application for 105 Keefer St and requested a second to the motion for purpose of discussion.

Mr. Mochrie seconded Mr. Dobrovolny's move for purpose of discussion.

Mr. Dobrovolny acknowledged that all the speakers cared a great deal for Chinatown, its heritage and its cultural significance.

Mr. Dobrovolny noted that both the staff and applicant dedicated a significant amount of time and work to the application, and for this reason it was a difficult decision for the board.

Mr. Dobrovolny noted his reason for not supporting the application as the following;
The effect of the new visible exterior surfaces has not fully satisfied the designed guidelines in the following ways:

1. Work needs to be done to reduce the amount of massing on the building and strengthen the response to the saw tooth pattern.
 - This would require a significant reduction in the floor area in locations to mitigate view impacts and provide a more appropriate back drop to the memorial plaza.
 - This would require a deleting of the two glass boxes and a reduction in middle bay heights to better distinguish the soft tooth pattern with the three bay components.

Mr. Dobrovolny noted the guidelines also speak to the public open spaces, specifically in Chinatown the Memorial Square as the primary open space.

The square accommodates activities such as passive recreation, community events, festivals and memorial services. Buildings flagging Chinatown Memorial Square should include frontages that offer general pedestrian interests.

Mr. Dobrovolny noted that given the prominence site of this location and to better address the effects of the new visible exterior surfaces suggested that the applicant team include a professional artist with local contextual knowledge for the detail development of the buildings ornamentation. Including, decorative panels, fittings, railings, and brick work.

Mr. Mochrie clarified a procedural explanation that a motion was seconded for the purpose of discussion and the board has not yet voted.

Mr. Mochrie noted the submissions that were received both verbally and in writing. They were passionate, heartfelt, and well-reasoned.

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Mr. Mochrie noted concern for the conduct witnessed during the process of the application and the rezoning hearing. Submissions at any point can't add value to the process if individuals who hold opposing or different views have been dissuaded from expressing those views.

Mr Mochrie noted Chinatown has a unique cultural significance in the City of Vancouver. Chinatown is a reflection of its history both positive and negative, in the sense of discriminatory treatment towards the Chinese community. It is important for everyone to do everything we can to retain that history. Rejects the notion there are any simple straight forward answers on how to achieve this.

Mr. Mochrie noted the current land use regulation for Chinatown is a result from extensive study and consultation, and was generally supported. It is arguable that it is not delivering the intended results, and this is a testimony that there are no straight forward answers, to achieve the intended objectives.

Mr. Mochrie noted the lack of unanimity on this issue. There is significant opposition to this application as well as support which has been submitted both verbally and in writing.

Mr Mochrie noted there have been many submissions represented with the use of "the Community." There is ample room for debate on what this means in this case. There are distinct constituencies that are much aligned but there are multiple opinions on what the right outcome should be, this fact was noted by council as well.

Mr Mochrie noted the views from all side of this debate there are legitimate issues to be concerned there is no one side that have an easier correct answer.

Mr Mochrie noted the key points heard and read in the submission in no particular order of priority:

1. Revitalization of neighbourhood and vitality of the businesses
2. Access to the amenity spaces provided by the applicant in the building
3. Scale of the building, particularly the proximity to Memorial Square and Sun Yet San garden.
4. The use of the building as market housing and retail and the potential impacts on the neighbourhood and residents.
5. The congruence of these uses with the cultural significance of the neighbourhood.
6. Limited information on the design of the building.

Mr. Mochrie noted all these submissions are real and substantive, in particular housing. The city is in great need in providing affordable housing for low income residents. There are significant challenges on delivering this on any site.

Mr. Mochrie noted the range of issues presented need to frame in the context of our jurisdiction as a board. This jurisdiction is very specifically prescribed by council, and the limits on this jurisdiction are intentional in terms of the decision as un-elected servants can make.

Mr. Mochrie noted council is limited to the same jurisdiction in applying the law as it currently exists.

Mr. Mochie noted the reference made in several submissions that council has rejected this project. This is not correct. What council heard and decided on was on the rezoning of this

property. This is a different project. This project notionally fits within the constraints of the existing zoning.

Mr. Mochrie encouraged anyone who has not seen council's debate to view it and is available to the City of Vancouver website.

Mr. Mochrie noted in his view this debate was a clear discussion about the trade-off between an additional three stories to this building up to twelve stories and the amenities that were provided in exchange for the additional density. Council also acknowledge the responsibility to oblige the existing laws.

Mr. Mochrie noted that he disagrees that council's decision provides any direction for this DPB meeting.

Mr Mochrie noted that use and height of the building are outright entitlements. The board has no legal scope to deny a development permit based on those two dimensions. Only real informative issue brought to this board was exterior design.

Mr. Mochrie noted that recommendations have been received by staff, Urban Design Panel, Development Permit board advisory, and all these groups have recommended in favour, staff with a number of conditions.

Mr. Mochrie noted the Chinatown Heritage Area Planning committee opposed the application, however the grounds of opposition included factors that are outside the scope of the board's jurisdiction and they were inconsistent with existing zoning bylaws.

Mr. Mochrie noted that our Land Use Regulation may not be the perfect tool to accomplish the broad range of social objectives that we as a community are seeking to deliver, and we should always strive for improvement in that regard.

We as city and community need to continue assessing the outcomes of the land use regulations against our objectives and if it is not delivering then we need to adjust. However on a process perspective it is important that the Land Use Regulation language be determined by elected officials with full opportunities for public input, transparent consideration and accountability.

Mr. Mochrie noted that there is no doubt 105 Keefer is a significant property in Chinatown, and that the entire fate of a neighbourhood should not rest on one property.

Mr. Mochrie noted the application meets requirements of the existing zoning. Agrees there are issues related to the design of the building, which have been captured in the conditions articulated by staff.

Mr. Mochrie noted these design conditions can go further, specifically:

- The glass boxes on Columbia St elevation,
- Location of the amenity space,
- Design of the Keefer and Columbia St Corner.

Mr. Mochrie noted the community amenity space is not a requirement of the zoning in this site.

Mr. Mochrie noted he will be voting against Mr. Dobrovolny's motion.

Mr. Kelley thanked fellow board members, staff, and the applicant team for their hard work, and the public for their submissions, and conducting a mostly civil dialogue.

Mr. Kelley noted a principal he applies in his decision making is to apply governance context.

Zoning policies were created and put in place for a reason. It has been done through a public process, and is the rules we need to abide by, and those apply to the design guidelines as well. For that reason, the decision of this panel is constrained. The Board cannot impose conditions on affordability or dictating culturally appropriate retail uses.

Mr. Kelley noted the notion of housing and retail tenure is outside the board's jurisdiction.

Nonetheless the board does have discretion. The discretion in this instance goes to the design issues, including if the design of the proposed building is an appropriate fit within the cultural context in which it resides.

Mr. Kelley noted this is what he focused on when coming to a resolution about this application.

Mr. Kelley noted he carefully listened and read all points of view which have been brought forth in documentation and in person testimonies.

Mr. Kelley noted if this application were to be approved there is a lot of design work ahead to reach that context of a cultural appropriate design for the reasons outlined by the board members.

If the board were to refuse this application the applicants are entitled to amend their application to address the issues that have come up.

Mr. Kelley noted, in the case of an amended application the board's jurisdiction remains the same, and the board would look to the design issues and not those of affordability and retail context.

Mr. Kelley noted this is an important site with such an important design signification in Chinatown and in his view the application has not met the design test.

Mr. Kelley noted that he supports the motion to refuse the application.

Mr. Kelley noted should the applicant decide to amend their application for the DPB for a development permit he personally encourages the applicant team to more fully engage the community around the design issues. To engage the community more deeply would help to meet the design test.

Mr. Kelley suggested the City should be in a position to offer facilitations for such a conversation and encourages for people to attend, if that were to occur at the decision of the applicant, with an open mind and desire to educate each other to find solutions. It is an important conversation and the city should be a facilitator in these conversations.

Mr. Kelley asked Mr. Mochrie if he would support such a request.

Mr. Mochrie noted his support.

Motion

It was moved by Mr. Kelley seconded by Mr. Dorbovolny, and was the decision of the Board:

THAT the Board REFUSE the decision of Development Application No. DP-2017-00681 - ZONE HA-1A, in accordance with the Staff Committee Report dated October 18, 2017.

OTHER BUSINESS

None.

5. ADJOURNMENT

There being no further business, the meeting adjourned at 6:00pm.