



POLICY REPORT
DEVELOPMENT AND BUILDING

Report Date: January 18, 2016
Contact: Jane Pickering
Contact No.: 604.873.7456
RTS No.: 11277
VanRIMS No.: 08-2000-20
Meeting Date: January 26, 2016

TO: Vancouver City Council

FROM: General Manager of Planning and Development Services and the Director of Legal Services

SUBJECT: Applicant Request for Council Reconsideration of Refused Development Permit DE419114 (4033 Osler Street) and Related Heritage Alteration Permit in the First Shaughnessy Heritage Conservation Area

RECOMMENDATION

THAT Council uphold the decision by the Director of Planning to refuse to issue Development Permit DE419114 and the related Heritage Alteration Permit for 4033 Osler Street because the proposed development involves the demolition of protected heritage property and does not comply with the Heritage Conservation Area Official Development Plan nor the requirements of the Zoning and Development By-law (First Shaughnessy District Schedule).

REPORT SUMMARY

This report recommends that Council uphold the Director of Planning's refusal to issue development permit DE419114 (4033 Osler Street) and the related heritage alteration permit because the proposed development involves the demolition of protected heritage property.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

Heritage Action Plan (2013)

- In December 2013, City Council adopted the Heritage Action Plan, including an action that directed staff to review and update the First Shaughnessy Official Development Plan to address concerns regarding the demolition of pre-1940 homes in the area as well as the form of development of new homes being built. This action included specific direction to consider establishing a heritage conservation

area for First Shaughnessy, to replace the First Shaughnessy Official Development Plan.

The Vancouver Charter:

- Part XXVII (Planning and Development) authorizes broad zoning and development powers.
- Part XXVIII (Heritage Conservation) authorizes Council to delegate certain authorities, including mechanisms for heritage review, and tools and methods for temporary protection and continuing protection of heritage property. Requires that certain delegated decisions be subject to reconsideration by Council.
- Section 596B(1) of the Vancouver Charter prohibits certain actions affecting property within an HCA unless the action has been authorized by a heritage alteration permit.
- Section 565A (d.1) allows Council to delegate the power to refuse to issue a development permit if, in the opinion of the delegate, the proposed action would detract from the heritage value or heritage character of protected heritage property.

Temporary Protection of First Shaughnessy:

First Temporary Control Period (2014)

- On June 24, 2014, Council enacted a Heritage Control Period (First Shaughnessy) By-law (2014) for temporary protection of First Shaughnessy for a period of 1 year.

Further Temporary Protection Period (2015)

- On June 25, 2015, Council referred to public hearing the development plan designating First Shaughnessy as a heritage conservation area. This resulted in a further 120 day protection period pursuant to Section 589A(1) of the Vancouver Charter.

Heritage Conservation Area Official Development Plan (2015)

- On September 29, 2015, Council enacted the Heritage Conservation Area Official Development Plan which designates the First Shaughnessy area as a heritage conservation area, providing continual protection of the heritage area.

Development Regulations for First Shaughnessy:

First Shaughnessy Official Development Plan (1982)

First Shaughnessy Design Guidelines (1982)

- Repealed in 2015

Zoning and Development By-law (2015)

- On September 29, 2015, Council adopted a new First Shaughnessy District Schedule to the Zoning and Development By-law.

First Shaughnessy Heritage Conservation Area Design Guidelines (2015)

- On September 29, 2015, Council adopted the First Shaughnessy Heritage Conservation Area Design Guidelines, as Appendix A3 to the Heritage Conservation Area Official Development Plan.

Heritage Procedure By-law

- On September 29, 2015, Council adopted the Heritage Procedure By-law to provide procedures for managing heritage property in the City. The by-law includes in Part 6 provisions for applicants to request reconsideration by Council of certain Director of Planning decisions. The City must provide for reconsideration if certain decisions are delegated to the Director of Planning.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The Acting General Manager of Planning and Development Services recommends approval of the foregoing recommendation.

REPORT

Background/Context

On December 4, 2013, Council instructed staff to undertake a review of the First Shaughnessy Official Development Plan as Action #7 of the Heritage Action Plan. The goal of this work was to encourage retention of pre-1940 homes and to support new development that better contributed to the character of the area. In June 2014, Council adopted a temporary heritage protection period for First Shaughnessy to prevent further demolition of pre-1940 homes, while the zoning review was underway. A consultant was engaged to undertake this work in September 2014, and public consultation on the review of the First Shaughnessy Official Development Plan began in February 2015. Public engagement and consultation activities with stakeholders included open houses, public learning sessions, practitioner workshops, and online surveys and email updates.

In September 2015, Council adopted the Heritage Conservation Area Official Development Plan (HCA ODP) which designated the First Shaughnessy Heritage Conservation Area (FSHCA) as the first heritage conservation area in Vancouver. The FSHCA includes General Guidelines, a Statement of Significance, design guidelines, and a list of protected heritage properties. Appendix A4 of the HCA ODP includes a list of protected heritage property, including the property located at 4033 Osler Street. Council also enacted a series of other by-laws intended to work together with the HCA ODP to support the preservation and protection of the unique character of the FSHCA, including the Heritage Procedure By-law and the Heritage Property Standards of Maintenance By-law.

In September 2015, Council also adopted a new zoning district schedule for First Shaughnessy. The First Shaughnessy District Schedule (FS-DS) updated both the technical regulations and design guidance for the area to address recurring concerns of both the staff and neighbourhood around forms of development over the preceding years. The most significant changes to the zoning relate to siting and massing of new houses, which respond to concerns that new development was out of scale with the heritage character of the district. As a

result, provisions for side yards, floor area, underground parking, building footprint and envelope and architectural variety were changed in the new FS-DS.

It is noted that no provisions for “grandfathering” in-stream applications were included in the new FS-DS, and the referral report specified that if the new by-laws were enacted, all applications and current enquiries would have to be considered under the new by-laws and zoning regulations. Efforts were made to ensure applicants and property owners were aware of the possibility of zoning changes and potential implications to their projects through in-person meetings, emails, and formal letters.

Strategic Analysis

As set out as Appendix A, the applicant for development permit DE419114 (4033 Osler Street) and the related heritage alteration permit has requested reconsideration by Council of the Director of Planning’s decision to refuse these permits. It was noted that the reasons outlined in the applicant’s letter were limited, so the applicant was provided with an opportunity to provide further details but nothing further was provided (see the letter from the Acting General Manager and Director of Planning in Appendix B).

Application Review Summary

The application for development permit DE419114 (4033 Osler Street) was submitted on May 12, 2015. This occurred during the one year temporary protection period authorized by the Heritage Control Period (First Shaughnessy) By-law. However, an extended enquiry process began in April 2013. An overview of the key stages of review is provided below, and a detailed summary of the processing of development permit DE419114 (4033 Osler Street) is provided in Appendix C.

The initial pre-application inquiry meeting for 4033 Osler Street was held on April 23, 2013. Following procedures in place at the time, the property was reviewed for possible inclusion on the Vancouver Heritage Register (VHR). On September 30, 2013, the Vancouver Heritage Commission reviewed a Statement of Significance and a heritage evaluation of the property against the criteria for inclusion on the VHR and concluded that the property should not be added to the VHR. As a result, the proposal to demolish the 1927 dwelling on the site was accepted. There were no further communications between the applicant and staff on the project until 10 months later, when preliminary drawings for a new home were received on August 5, 2014. Staff provided additional advice and there were no further communications until 6 months later when revised drawings were submitted in February 2015. A formal application was made 3 months after that, on May 12, 2015. The date of formal development permit application came almost 20 months after the applicant was advised in September 2013 that the home was not a candidate for the VHR and thus staff would support its demolition. It is noted that during this period, Council adopted the Heritage Action Plan in December 2014, with instructions to review development regulations in First Shaughnessy. In June 2014, Council also adopted a one year temporary heritage protection period for First Shaughnessy to prevent further demolition of pre-1940 homes, while the zoning review was underway.

On June 9, 2015, Council referred the Heritage Conservation Area Official Development Plan and First Shaughnessy District Schedule to public hearing. The applicant for development permit DE419114 (4033 Osler Street) was informed of this and of the potential for implications to the proposed development should Council adopt the proposals after the public hearing (see

Appendix D). Prior to the referral, the applicant was informed of the nature and progress of the review of the First Shaughnessy Official Development Plan. He attended a practitioners' workshop, an open house, and was sent email updates. During the public hearing, the applicant spoke to Council several times requesting that in-stream applications are "grandfathered" and allowed to proceed under the old regulations.

On September 29, 2015, Council adopted the Heritage Conservation Area Official Development Plan and First Shaughnessy District Schedule, along with other related by-laws. All applications in process at the time would now be required to meet the new regulations, as the old regulations were repealed and replaced.

Staff met with the applicant on October 14, 2015 to discuss options for moving the project forward. At the request of the applicant, the application was refused so that he could request reconsideration by Council of the refusal. See Appendix E for the refusal documents.

Rationale for Refusal to Issue a Development Permit and Heritage Alteration Permit

Appendix F provides a summary of the rationale for refusal of development permit DE419114 and the related heritage alteration permit for 4033 Osler Street. Overall, the development permit was refused because it proposed to demolish protected heritage property as listed in a schedule to the HCA ODP, which identifies and protects pre-1940 homes in the area, including 4033 Osler Street. The development permit was also refused because the proposed development does not comply with the zoning regulations for First Shaughnessy.

The Director of Planning is authorized to refuse a development permit involving protected heritage property if the action proposed would detract from the heritage character or heritage value of protected heritage property. Although the Vancouver Heritage Commission determined that the dwelling should not be added to the Vancouver Heritage Register, this is a different determination than the one made by the Director of Planning. As part of the refusal, staff conducted an assessment of the property under the new regulations and confirmed that the property retains sufficient heritage character and heritage value to justify its conservation as part of the First Shaughnessy heritage conservation area (see pages 3 - 5 of Appendix F).

As noted, the development permit application was submitted 20 months after initial advice supporting demolition was given to the applicant. This came 9 months after receipt of staff comments on preliminary drawings, and less than 5 weeks before the proposed changes to the District were referred to public hearing. Staff acknowledge that the application is seeking reconsideration, in part, because of the advice to the applicant that demolition of the 1927 dwelling could be pursued under the old regulations. However, it is the opinion of staff that this alone is not sufficient to warrant overturning the Director of Planning's decision.

If the application had been filed sooner, the application could have avoided the one year temporary heritage protection period, and could have been approved under the old procedures and regulations. Once Council referred the new regulations to public hearing the applicant was informed by City staff in a timely manner that the proposed regulations could affect the application.

Reconsideration Process

Part 6 of the Heritage Procedure By-law includes provisions for applicants to request reconsideration by Council of certain Director of Planning decisions. After hearing the request, Council may decide to uphold or vary the decision.

In the case of development permit DE419114 and the related heritage alteration permit for 4033 Osler Street, it is recommended that Council uphold the decision to refuse issuance of these permits. Should Council wish to vary this decision, it should consider that before the permits can be issued, the Heritage Conservation Area Official Development Plan, the First Shaughnessy Heritage Conservation Area Design Guidelines, and the First Shaughnessy District Schedule to the Zoning and Development By-law would have to be amended to accommodate the proposed development's demolition of protected heritage property, as well as variances from current regulations. These amendments would require consideration at a public hearing, before they can be adopted. Council could also consider removing the property from the list of protected heritage property in the Heritage Conservation Area Official Development Plan, should Council be open to considering demolition of the 1927 home on the property. This would also require a public hearing.

Prior to the enactment of the heritage conservation area, the applicant may have sought to appeal the refusal to the Board of Variance. However, per section 573(2.1) of the Vancouver Charter, the Board of Variance does not have jurisdiction over properties subject to a heritage alteration permit.

CONCLUSION

This application for reconsideration is seeking to have the proposed development approved in accordance with previously existing, but now repealed, procedures and regulations. It is in effect a request for 'grandfathering' of a non-compliant development. Staff recommend that Council uphold the decision by the Director of Planning to refuse development permit DE419114 and the related heritage alteration permit. The development proposed by this permit would result in the demolition of protected heritage property and would be inconsistent with Council's recently adopted Heritage Conservation Area Official Development Plan and First Shaughnessy District Schedule of the Zoning and Development By-law. Approving such development would be contrary to the objectives and intent of the City's first heritage conservation area.

* * * * *

Applicant's Letter of Request for Council Reconsideration

7 December, 2015

City of Vancouver
453 W. 12th. Ave.
Vancouver, V6Y1V4

Loy Leyland Architect Inc.
1 - 1864 W. 1st Ave.,
Van., B.C., V6J1G5

Attention City Clerk ;

Re: 4033 Osler St., DE 419114

Pursuant to s. 6.1 of Heritage Procedure Bylaw, we hereby request a reconsideration by Council of the Director of Planning's November 27, 2015 decision to deny DE 419114.

On May of 2015, we applied for a development permit to construct a new single family dwelling at 4033 Osler St. on behalf of the owner, Mr. Chen.

The application was accepted by the planning department as a Development Permit application under the previous First Shaughnessy regulations of the City of Vancouver.

There is an existing, pre 1940s home on the Property. The property was removed and now returned to the Heritage list. The Director of Planning refused the permit for a new house November 27th, 2015 because:

- : 002 .. the proposed house does not comply with regulations of the Zoning and Development ByLaw that affect the site...
- : 003 .. does not comply with the intent statement in the District Schedule... to protect the distinct estate character of FSD the First Shaughnessy Heritage Conservation area.
- : 004 ..does not comply with the Official Development Plan...
- : 005 .. the proposed development does not comply with policies or guidelines that affect the site.
- : 019 .. any further applications made must be prepared in a clear and concise manner.

The application complied with the intent of the District Schedule that existed at the time that the City accepted the Development Application. It went through the '**Statement of Significance**' process and was deemed to not have enough merit to qualify as a Heritage registered property.

The Board of Variance no longer has jurisdiction to consider appeals of this nature as Shaughnessy is now a Heritage Conservation Area. The Planning department did not have time to process the application and has now refused it because it does not comply with the new schedule.

Sincerely, Loy Leyland, architect aibc

Letter Inviting Applicant to Submit Additional Reasons



PLANNING AND DEVELOPMENT SERVICES
General Manager's Office

December 18, 2015

Mr. Loy Leyland
1-1864 West 1st Avenue
Vancouver, BC V6J 1G5

Dear Mr. Leyland:

RE: Request for Submission of Supplementary Reasons (DE419114 - 4033 Osler Street)

Staff have reviewed your request for reconsideration by Council of the Director of Planning decision to refuse Development Permit (DE419114) and the related Heritage Alteration Permit. As outlined in my letter dated November 19, 2015 (received by you on November 27), Part 6 of the Heritage Procedure By-law states that requests for reconsideration by Council of a decision by the Director of Planning can be made by submitting the request in writing to the City Clerk within 14 days of the decision, setting out the reasons for the request. However, it is noted that your letter dated December 7, 2015 requesting Council reconsideration could be more expansive.

While oral representations will be permitted at the Council reconsideration, the written reasons you have provided will form an integral part of the basis of Council's reconsideration, and will be appended to the Council report related to the reconsideration. A copy of that report will be made available prior to the Council reconsideration. Based on this, the City is giving you the opportunity to submit additional or supplementary written reasons to the City Clerk by email to ccclerk@vancouver.ca by Monday, January 4th (end of business day). If supplementary reasons are not received by this date, the City will proceed with developing the Council report based on what has already been submitted.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane Pickering", written over a horizontal line.

Jane Pickering
Acting General Manager & Director of Planning
Planning and Development Services

JP/tky

cc: Janice MacKenzie, City Clerk
Anita Molaro, Assistant Director of Planning - Urban Design
John Greer, Assistant Director - Development Review Branch

City of Vancouver
453 West 12th Avenue
Vancouver, British Columbia V5Y 1V4 Canada
tel: 3-1-1
website: vancouver.ca



Appendix C - Part 1

Timeline of Application Processing: Development Permit DE419114 (4033 Osler Street) and Related Heritage Alteration Permit

Heritage Action Plan Milestones:



Permit Processing Milestones: **Development Permit DE 419114 (4033 Osler Avenue)**

April 23, 2013	Pre-application Enquiry
August 21, 2013	Statement of Significance Submitted
September 30, 2013	Review by Vancouver Heritage Commission
October 2013	Staff Advice Provided
August 5, 2014	Preliminary Drawings Submitted
August 22, 2014	Staff Advice Provided
February 6, 2015	Revised Drawings Submitted
February 23, 2015	Staff Advice Provided
May 16, 2015	Application Made
June 23, 2015	Applicant Informed of Referral of Amendments to Public Hearing
November 27, 2015	Permit Refused at Applicant's Request

Appendix C - Part 2

Detailed Summary of Application Processing: Development Permit DE419114 (4033 Osler Street) and Related Heritage Alteration Permit

The applicant and Planning staff held an initial pre-application meeting on **April 23, 2013** to discuss development of a new house on a site at 4033 Osler St. in the First Shaughnessy District. Development would require demolition of the 'Holland House', an existing 1927 dwelling. Preparation of a Statement of Significance (SOS) was requested for review by the Vancouver Heritage Commission subcommittee to advise staff as to whether demolition could be supported or whether the existing dwelling had heritage character merit.

The applicant provided the SOS on **August 21, 2013** and it was scheduled for review on **September 16, 2013**. The subcommittee's evaluation indicated that the dwelling did merit addition to the Vancouver Heritage Register (VHR). The VHC approved this conclusion on **September 30, 2013**. Staff note the merit evaluation process then in place was to identify whether or not a dwelling should be added to the VHR. The current regulations differ from this, and consider whether the dwelling has sufficient character merit to be preserved. Based on the conclusion that the dwelling should not be added to the Vancouver Heritage Register, the applicant was advised in October 2013 that demolition of the 1927 dwelling could be supported subject to the design of the new house meeting the policies, regulations and guidelines applicable to new development under the First Shaughnessy Official Development Plan in place at the time.

Staff had no further contact with the applicant regarding the proposed new dwelling until preliminary drawings were submitted on **August 05, 2014**. The applicant also sought to confirm previous advice regarding demolition. Advice regarding demolition was confirmed and an offer of preliminary comments on the proposed dwelling was provided on **August 22, 2014**. The development site was noted as having existing lane service to the north side yard and mature planting in the shared side yard on the south side. The applicant was advised of support for vehicular access from the north side yard, and that an arborist's report would be needed to support the proposed tree removal. The applicant submitted revised pre-application drawings on **February 06, 2015**. Staff also advised the applicant on February 23, 2015 that the project could proceed to FSADP review once an application was received.

There was no further pre-application contact on the proposed development until a new house application was submitted on **May 12, 2015**. The application was submitted nine months after confirmation of advice that demolition could be pursued, and 20 months after the VHC's conclusion that demolition could be supported. Staff note that the application was submitted during a period of significant regulatory change that would affect the development.

Typically, it takes 6-8 weeks from the time an application is made until it is presented to the FSADP. This allows preliminary review of the application to ensure that all materials have been received and that neighbourhood notification can proceed. It also allows for receipt of a scale model and distribution of materials to FSADP members. Based on typical timelines for applications, the earliest review of the project by FSADP would likely have been July 9, 2015. However the FSADP did not meet again until October 1, 2015 and the FSADP did not review the project.

The applicant was advised in writing on **June 23, 2015** that a public hearing for proposed changes to FSD would commence on July 21, 2015. The applicant was also told that if Council adopted the proposed by-laws before a development permit was issued, the subject application would have to conform to the new regulations. The applicant was urged to review these changes in anticipation of their approval. This would help minimize disruption to the ongoing application process. It would also help ensure that the applicant understood the extent of redesign that may be required in order for the application to be approved under the new regulations.

Over the course of the public hearing held between July and September 2015, the applicant urged Council to allow "grandfathering" of in-stream applications but Council did not allow for "grandfathering". After the new by-laws were enacted, City staff met with the applicant to discuss options for moving forward with the project on October 14, 2015. These options were limited to withdrawal of the application, redesign to comply with new regulations, or refusal of the application with the option to appeal to Council for reconsideration of the refusal. The application was refused at the request of the applicant on November 27, 2015.

Letter Informing Applicant of Referral of First Shaughnessy Items to Public Hearing



June 23, 2015

**RE: First Shaughnessy District - Potential Regulatory Changes
4033 Osler St - DE419114**

Dear Loy,

I am writing to inform you that on Tuesday, June 9, 2015 City Council referred significant regulatory changes for the First Shaughnessy District (FSD) to a Public Hearing tentatively scheduled to commence on Tuesday, July 21, 2015. The proposed changes include a new Heritage Conservation Area Official Development Plan (HCA ODP), new zoning regulations, updated design guidelines, and related by-law amendments.

These changes are being proposed as part of the City of Vancouver's ongoing Heritage Action Plan and were developed during multiple rounds of public consultation and stakeholder engagements in the neighbourhood, aimed at finding ways to encourage conservation of heritage and character homes in the FSD and improving the compatibility of new development with the area's pre-1940 character. The staff reports outlining recommended changes are available on our website at:

<http://former.vancouver.ca/ctyclerk/cclerk/20150609/regu20150609ag.htm>

Your application at 4033 Osler St was received on 12th May 2015 and has not yet been approved by the issuance of a Development Permit. If Council adopts the changes after holding the Public Hearing and enacts the proposed by-laws before a development permit is issued, your application must be reviewed against and conform to the new regulations.

I urge you to review these changes in anticipation of their approval so as to minimize disruption to your ongoing application process in this period of transition, and to ensure that you have a full understanding of the extent of redesign that may be required in order for your application to be approved under the by-laws, policies and guidelines that may be in place at the time your application is ready for approval. With that in mind, I would note the following implications of the referral to Public Hearing:

- As a result of first reading and referral of the proposed HCA ODP to Public Hearing, a 120-day temporary protection period is in place for FSD. During this 120-day period, a Heritage Alteration Permit (HAP) is almost certainly required. Heritage Alteration Permits will be processed concurrently with development permits and should not affect project processing time or fees.

4033 Osler St - Anita's Letter Notice of Potential Reg Changes

City of Vancouver
453 West 12th Avenue
Vancouver, British Columbia V5Y 1V4 Canada
tel: 3-1-1, Outside Vancouver 604.873.7000 fax: n/a
website: vancouver.ca



- During the 120-day period, the Director of Planning or Council could issue Heritage Alteration Permits for properties in the proposed HCA in accordance with the Heritage By-law, the Vancouver Charter and any other relevant by-laws and policies.
- During the 120-day period, the Director of Planning and Council could withhold all development permits related to properties in the HCA, and any development proposals subject to withholding can be delayed until the proposed by-laws are enacted.

More information on the Heritage Action Plan, its aims and background can be found at <http://vancouver.ca/home-property-development/heritage-action-plan.aspx>

Yours truly,



Anita Molaro, Architect, AIBC LEED AP
Assistant Director of Planning, Urban Design
515 W 10th Ave, Vancouver, BC
anita.molaro@vancouver.ca
tel: 604.871.6479



PLANNING AND DEVELOPMENT SERVICES
General Manager's Office

November 19, 2015

Mr. Loy Leyland
1-1864 West 1st Avenue
Vancouver, BC V6J 1G5

Dear Mr. Leyland:

RE: Request for Refusal of Development Permit DE419114 (4033 Osler Street)

As per your request to the Director of Planning, Development Permit (DE419114) has been refused and is attached to this letter. This refusal also constitutes a refusal of a Heritage Alteration Permit.

These permits have been refused as they propose demolition of the building located at 4033 Osler Street, which is designated as Protected Heritage Property in the First Shaughnessy Heritage Conservation Area (Heritage Conservation Area Official Development Plan) and the proposed development is not consistent with the purpose of the heritage conservation of the property.

As you know, Part 6 of the Heritage Procedure By-law enables reconsideration by City Council for certain Development Permit and Heritage Alteration Permit refusals. Such requests must be made in writing to the City Clerk within 14 days of the refusal and reasons for the request must be provided. Requests should be sent by email to ccclerk@vancouver.ca.

If a request is received, the City Clerk will schedule a meeting of Council to consider the matter as soon as reasonably possible, and you will be informed approximately two weeks in advance of the meeting. Staff will provide Council with a report on the permit application and refusal, and the owner and permit applicant will have an opportunity to speak to Council on the matter.

Should you have any questions regarding the permit refusal or the procedures for Council Reconsideration, please contact me or Anita Molaro, Assistant Director of Planning.

City of Vancouver
453 West 12th Avenue
Vancouver, British Columbia V5Y 1V4 Canada
tel: 3-1-1
website: vancouver.ca



Sincerely,

A handwritten signature in black ink, appearing to read 'Jane Pickering', with a long horizontal flourish extending to the right.

Jane Pickering
Acting General Manager & Director of Planning
Planning and Development Services

JP/ky

Enclosure (Refused Permit DE419114)

cc: Anita Molaro, Assistant Director of Planning - Urban Design
John Greer, Assistant Director - Development Review Branch
Janice MacKenzie, City Clerk

453 WEST 12TH
VANCOUVER, B.C. V5Y 1V4
TEL : 604-873-7344 FAX : 604-873-7060

CITY OF VANCOUVER

(THIS IS NOT A PERMIT)

DATE ISSUED NOVEMBER 27, 2015		PERMIT TYPE DEVELOPMENT PERMIT REFUSAL			REFUSAL NUMBER R DE 419114	
LEGAL DESCRIPTION LOT 6 BLOCK 72 DISTRICT LOT 526 PLAN 4502				ADDRESS 4033 OSLER ST		
ADDITIONAL ADDRESS INFORMATION				SPECIFICS		
APPLICATION DATE MAY 12, 2015	PURPOSE CONSTRUCT	PROJECT VALUE	ASSESSED VALUE	PLANS 9	METRIC NO	PLACE NAME
TEMPORARY BUILDING DATES		TEMPORARY USE DATES		SUBTYPE		
COMPLEXITY 016 FSD ZONE				CO-ORDINATE 148-705-63-0000		
APPLICANT DESIGN PROF LOY LEYLAND #1 - 1864 W 1ST AVE VANCOUVER BC V6J 1G5		CONTACT 2 PROPERTY OWNER JIA CHEN RE-AN DEVELOPMENT CORP. 5726 ANGUS DR. VANCOUVER BC V6M 3N8		CONTACT 3		
TEL 604-736-1419	BUS.LICENSE CERTIFICATE	TEL FAX	BUS.LICENSE CERTIFICATE	TEL FAX	BUS.LICENSE CERTIFICATE	
<p>THE APPLICATION SUBMITTED WITH PLANS TO:</p> <p>To develop a two-storey one-family dwelling with an attached garage providing three parking spaces, having vehicular access from the lane.</p>						
<p>AND IS REFUSED FOR THE FOLLOWING REASONS:</p> <p>002 The proposed development does not comply with the regulations of the Zoning & Development By-law that affect the site.</p> <p>The proposed development does not comply with the regulations of the FS District Schedule Development governing Conditional Approval Uses, both in the demolition of the pre-date home as well as the design of the new dwelling as it relates to Accessory Uses, Front Yard, Side Yard, Rear Yard, Floor Area & Density, Footprint, and Building Depth.</p> <p>003 The proposed development does not comply with the intent statement set out in the District Schedule of the Zoning & Development By-law.</p> <p>The intent of the FS District Schedule is to protect the distinct estate character of the First Shaughnessy Heritage Conservation Area; demolition of a pre-date dwelling of character merit is contrary to this intent. Furthermore, for all development, emphasis is on sensitive site planning, compatible building scale, flexible and varied outcomes of built form and high quality design, materials, and construction. The Director of Planning is not satisfied that the form of development proposed for the new dwelling is consistent with this intent.</p> <p>004 The proposed development does not comply with the Official Development Plan that affects the site.</p> <p>The proposed demolition of a pre-date dwelling of character merit in the designated Heritage Conservation Area of First Shaughnessy is contrary to the aims and provisions of the Development Plan.</p> <p>005 The proposed development does not satisfactorily comply with the policies or guidelines that affect the site.</p> <p>Development under the FS District Schedule is expected to be in accordance with heritage conservation, landscape and built form principles described in the First Shaughnessy Heritage Conservation Area Design Guidelines.</p> <p>019 Any further applications made to the City must be prepared in a clear and concise manner, explicitly showing the proposed development with all the necessary and relevant information.</p>						
PROPOSED USE D30 ONE-FAM DWELLING	SPECIFICS/LOCATION ATTACHED GARAGE	AREA (SF) C	PROPOSED USE	SPECIFICS/LOCATION	AREA (SF)	OCC
ITEM 0024 FS HERITAGE INV 0040 PROCESSED THROUGH	SPECIFICS/REFERENCE 32 PROC CTR -MGR DE	QTY/AMT	ITEM 0080 ZONE	SPECIFICS/REFERENCE Z065 FSD	QTY/AMT	
PROCESSED BY: PROC CNTR DEV REVIEW BY K PRINGLE LANDSCAPE REVIEW BY L BEAULIEU			DEVELOPMENT PLANNER IS C KING ENGINEERING CLEARANCE BY K CAVELL			
FEE		AMOUNT	FEE		AMOUNT	
114 DEV SCHED 1 (C)		3,450.00				
911 SERVICE CHARGE		35.00				
INVOICE: 780140 781156			TOTAL		\$3,485.00	
SIGNED BY		LOY LEYLAND				
DATE		SEE APPLICATION				
HANDLED BY		K PRINGLE				
FOR THE		DIRECTOR OF PLANNING & DEV				

PSD200.01 REVISED FEB/08

2015/11/27 10:27:35

AUDIT COPY

Summary of Rationale for Refusal of Development Permit DE419114 (4033 Osler Street) and Related Heritage Alteration Permit

Outlined below is a summary of the reasons for refusal of development permit DE419114 and the related heritage alteration permit. A key issue for this proposed development is that it involves “protected heritage property”; however the development permit was also refused because the proposed development did not comply with the new zoning regulations enacted in the area. The reasons for refusal below indicate the primary areas of non-conformance with the application as it relates to the First Shaughnessy District Schedule, as well as the First Shaughnessy Design Guidelines in the Heritage Conservation Area Official Development Plan. There is also a note on deficiencies in the new house design that describe the design development necessary to revise the application to comply with the FS-DS focussing on the form of development rather than technical.

DE419114 was refused on the following grounds:

1.1 Development Plan.

Note: The proposed demolition of a pre-date dwelling of character merit in the designated heritage conservation area of First Shaughnessy is contrary to the aims and provisions of the Development Plan.

1.2 The proposed development does not comply with the intent statement set out in the First Shaughnessy District Schedule of the Zoning and Development By-Law.

Note: The intent of the FS District Schedule is to protect the distinct estate character of the First Shaughnessy Heritage Conservation Area: demolition of a pre-date dwelling of character merit is contrary to this intent. Furthermore, for all development, emphasis is on sensitive site planning, compatible building scale, flexible and varied outcomes of built form and high quality design, materials, and construction. The Director of Planning is not satisfied that the form of development proposed for the new dwelling is consistent with this intent.

1.3 The proposed development does not comply with the regulations of the Zoning and Development By-Law that affect the proposed use on the site;

Note: The proposed development does not comply with the regulations of the FS District Schedule Development governing Conditional Approval Uses, both in the demolition of the pre-date home as well as the design of the new dwelling as it relates to Accessory Uses; Front Yard; Side Yard; Rear Yard; Floor Area & Density; and, Building Depth.

1.4 The proposed development does not satisfactorily comply with the policies and guidelines of the Zoning and Development By-Law that affect the proposed use on the site;

Note: Development under the FS District Schedule is expected to be in accordance with heritage conservation, landscape and built form principles described in the First

Shaughnessy Heritage Conservation Area Design Guidelines. The proposed development is deficient in those areas described in the Note below.

Deficiencies that Require Design Development are as follows:

The new house design described by the application would require significant design development as follows to remedy deficiencies as they relate to the First Shaughnessy District Schedule and the First Shaughnessy Heritage Conservation Area Design Guidelines even in a scenario where demolition of the pre-date dwelling was not prohibited, to the extent that a new form of development and expression would result:

1. Design development to comply with the regulations of First Shaughnessy District Schedule as follows:
 - i. Accessory Uses;
(Note: Per Section 3.2.A, parking is not permitted in a principal building unless the parking was in existence at the date of enactment of the FS District Schedule).
 - ii. Front Yard;
(Note: Proposed front yard setback does not meet the minimum required by Section 4.4.1 of the FS District Schedule).
 - iii. Side Yard;
(Note: Proposed side yard setbacks do not meet the minimum required by Section 4.5.1 of the FS District Schedule).
 - iv. Rear Yard;
(Note to Applicant: Proposed side yard setbacks do not meet the minimum required by Section 4.6.1 of the FS District Schedule).
 - v. Floor Area & Density;
(Note: Proposed floor area exceeds the provisions of Section 4.7.2 of the FS District Schedule. Furthermore, the exclusion of parking in the principal building contravenes Section 4.7.4(d) of the FS District Schedule).
 - vi. Building Depth;
(Note: Proposed building depth exceeds the provisions of Section 4.16.1 of the FS District Schedule).
2. Design development to improve massing and expression as it relates to the First Shaughnessy Heritage Conservation Area Design Guidelines, specifically those guidelines concerned with Building Envelope and Footprint:

(Note: Section 3.6.1 the First Shaughnessy Heritage Conservation Area Design Guidelines note that building envelopes are prescribed to establish minimum

standards for sites to perform favourably towards neighbouring sites and are not intended as a basis for generating building form. Previously outlined deficiencies regarding building siting and massing as it relates to yards, setbacks, FSR, etc. need to be addressed in a manner that improves the performance of the building in line with the intent and specific aims of the guidelines).

Summary of Heritage Character and Heritage Value evaluation:

The Heritage Procedure By-law authorizes the Director of Planning to refuse a permit for such an application if the proposed action would detract from the heritage value or heritage character of protected heritage property. Staff conducted an evaluation of the heritage character and heritage value of the home built in 1927 located at 4033 Osler Street (see photo below) under the new regulations, and determined that the house retains sufficient heritage character and heritage value to justify its conservation as part of the First Shaughnessy heritage conservation area.

The assessment is based on the Heritage Character-Defining Elements (sec. 3.4.5) in the First Shaughnessy Heritage Conservation Area Design Guidelines. The specific elements, including detailed description from the guidelines are listed below in italics, and the assessment of each element for 4033 Osler Street follows in bullet form.

a. *Exterior Form:*

The basic exterior form includes the orientation, scale, massing, composition and roof shape of the building. The exterior building form also contributes to the neighbourhood context which includes its spatial relationship with neighbouring buildings and the streetscape. All these attributes of exterior form enhance heritage character and heritage value.

- Storybook design features represent mid-1920s development in First Shaughnessy
- Original orientation, scale, massing, composition and roof shape are intact
- Spatial relationship of building to site, neighbouring buildings and streetscape is intact
- Additions to rear do not detract from above

b. *Roof:*

Most early architecture in First Shaughnessy display prominent roof forms. Roof design includes elements such as cupolas, turrets, chimneys, gutters, weathervanes, gables, eaves, parapets, dormers, soffits, and fascias. Roof designs are integral to heritage character and heritage value.

- Prominent roof form featuring double front asymmetrical steeply pitched gables connected by shed gable

c. *Exterior Walls:*

exterior walls include foundation walls, structural masonry including stone walls, wood or steel framing, and an exterior cladding system such as

stucco, wood siding, or shingles. Exterior walls provide the weatherproofing, structure, insulation, and control of daylight. The type and quality of the materials used for cladding of exterior walls also contributes to heritage character and heritage value.

- Stucco cladding with half-timber detailing (board on stucco) on front gable ends (exterior materials original and/or compatible with materials typical of the period)

d. *Windows and Doors:*

exterior windows and doors include components such as frames, trims, mouldings, sashes, muntins, stained and leaded glass. The hardware on windows and doors adds further detail and interest. The location and design of windows and doors give the building a sense of scale, rhythm, proportion and depth.

- Variety of windows some of which are original including arched multi-paned assemblies in the front gable ends and double hung windows with multi-paned upper sashes
- Large windows at front appear to be replaced

e. *Entries and Porches:*

the location and design of the entry and porch of a building contribute to the heritage character and heritage value of the building.

- Original entry and porch location and configuration are intact

f. *Interior Architectural Features:*

interior architectural features include walls, ceilings, stairs, or other unique decorative features, such as columns, pilasters, windows, doors, window and door surrounds or architraves, projections, cornices, pediments and balustrades and their paints, finishes and colours, architectural hardware and all other similar interior features with heritage character or heritage value.

- unknown

g. *Landscape Features:*

include any fence, retaining wall, fountain, patio, terrace, statuary or similar feature or garden of significance that is located on a site and outside the exterior walls of a building.

- Some mature edges and plants of modest significance
- Large tree on south side of property (confirm if it is located on this property or neighbours)

Protected Heritage Property located at 4033 Osler Street (First Shaughnessy Heritage Conservation Area) - Built in 1927 (Holland House)

