

SUMMARY AND RECOMMENDATION

4. REZONING: 424-428 West Pender Street

Summary: To rezone 424-428 West Pender Street from DD (Downtown) District to CD-1 (Comprehensive Development) District to increase the floor space ratio from 6.00 to 8.14 to allow for the construction of an 11-storey mixed-use building with a height of 32 m and commercial at grade and residential units above, all of which will be secured by a Section 219 Covenant as market rental housing.

Applicant: Onni Development (Pender) Corp.

Referral: This item was referred to Public Hearing at the Regular Council Meeting of October 18, 2016.

Recommended Approval: By the General Manager of Planning, Urban Design and Sustainability, subject to the following conditions as proposed for adoption by resolution of Council:

- A. THAT the application by Onni Development (Pender) Corp. (Onni) to rezone 424-428 West Pender Street [*Lots 5 and 6, Block 35, District Lot 541, Plan 210, PIDs 012-167-363 and 012-167-380 respectively*] from DD (Downtown) District to CD-1 (Comprehensive Development) District, to increase the floor space ratio from 6.00 to 8.14 to allow for the construction of an 11-storey mixed-use building with commercial at grade and residential units above, all of which will be secured by a Section 219 Covenant as market rental housing, generally as presented in Appendix A of the Policy Report dated October 4, 2016 entitled "CD-1 Rezoning: 424-428 West Pender Street" be approved subject to the following conditions:

CONDITIONS OF APPROVAL OF THE FORM OF DEVELOPMENT

- (a) That the proposed form of development be approved by Council in principle, generally as prepared by IBI Group Architects, and stamped "Received City Planning Department, July 8, 2016", provided that the Director of Planning may allow minor alterations to this form of development when approving the detailed scheme of development as outlined in (b) below.
- (b) That, prior to approval by Council of the form of development, the applicant shall obtain approval of a development application by the Director of Planning, who shall have particular regard to the following:

Design Development

1. Design development to provide and maintain the use of high-quality materials for the proposal at all stages of the approval process, including subsequent development permit approval review.

Note to Applicant: The use of cementitious panel material such as hardi-siding is not considered to be a high quality material.

2. Further design development to the Pender Street elevation is required as follows:

- (i) Further detail, development, and articulation of the base cornice;
- (ii) Revise the balcony design of the upper levels 9-11 to be incorporated into the overall design, i.e. not of a horizontal nature;
- (iii) Revise the datum of the retail cornice to neighbouring buildings and to the proposal at 454 West Pender Street.

3. Design development to the 11th floor amenity spaces to improve their ability to serve the needs of all residents, including families and children.

Note to Applicant: This can be accomplished by revising the proportions and increasing the size of the indoor amenity room, and providing an accessible washroom and kitchenette. The amenity of the outdoor space may be improved by adding play features for children. See also Housing condition 27.

4. Design development to the rooftop urban agriculture space to include children's play elements and to provide a minimum of 25% of the roof area to be intensive green roof.

Note to Applicant: Consider the inclusion of landscape elements that create opportunities for creative play, co-located with the proposed urban agriculture space.

Note to Applicant: If rooftop access is to be excluded from the calculation of height, rooftop urban agriculture space must be provided in accordance with the *Urban Agriculture Design Guidelines for the Private Realm* and *Roof-mounted Energy Technologies and Green Roofs - Discretionary Height Increases Bulletin*.

5. Provision of adequate storage for each unit.

Note to Applicant: A total of 41 storage units are proposed in the basement level. Storage is required for each unit, whether in the unit or below grade, as anticipated in the *Bulk Storage and In-Suite Storage - Multiple Family Residential Development Bulletin*.

6. Provision of a vertical vent space to accommodate future exhaust from the commercial level.

Note to applicant: Intent is to allow for a wider range of uses, including restaurants, without requiring the retrofitting of exhaust ducting on the outside of the building. This condition also supports the continuation of a future restaurant use on the site, in response to the heritage value of

the existing building, which has had a restaurant or café on site since the year of construction in 1922.

7. Submission of a bird friendly strategy for the design of the building and landscape is encouraged in the application for a development permit.

Note to applicant: Strategy should identify any particular risks with regard to the *Bird Friendly Design Guidelines* and propose design features or to reduce these risks. For more information, see the guidelines at <http://former.vancouver.ca/commsvcs/guidelines/B021.pdf>.

8. Provision of high quality and durable exterior finishes, as proposed in the rezoning submission, are to be carried forward and remain through the development permit process.

Crime Prevention Through Environmental Design (CPTED)

9. Design development to respond to CPTED principles, having particular regards for:
 - (i) theft in the underground parking;
 - (ii) residential break and enter;
 - (iii) mail theft; and
 - (iv) mischief in alcoves and vandalism, such as graffiti.

Note to applicant: Building features proposed in response to this condition should be noted on the plans and elevations. Consider use of a legend or key to features on the drawings.

Sustainability

10. Confirmation that the application is on track to meeting the *Green Buildings Policy for Rezoning*s including a minimum of LEED® Gold rating, with 1 point for water efficiency and stormwater management and a 22% reduction in energy cost as compared to ASHRAE 90.1 2010, along with registration and application for certification of the project.

Note to applicant: A Sustainable Design Strategy must be submitted as part of the Development Permit that articulates which credits the applicant will be pursuing and how their building application, as submitted, incorporates strategies, features or technologies that will help achieve these credits. The design strategy, along with the LEED checklist must be incorporated into the drawing submission. A letter from a LEED Accredited Professional or Administrator must confirm that the proposed strategy aligns with the applicable goals of the rezoning policy. Proof of registration from the CaGBC must be provided with the application and the project registration number incorporated into the drawings. Application for Certification will be required at a subsequent stage.

Landscape

11. Design development in coordination with the General Manager of Engineering Services and Urban Design staff with regard to the public realm treatment.
12. Design development to the integration of the planters on slab with the overall architecture to provide maximum plant growing depth (exceed BCLNA Landscape Standard) to support plant health.

Note to Applicant: Variations in the slab may be required in combination with appropriate growing medium. In the horizontal plane, soils should be contiguous, wherever possible.

13. At time of Development permit:
 - (i) Provision of a detailed Landscape Plan illustrating common and botanical name, size and quantity of all existing/ proposed plant material.

Note to Applicant: Plant material should be clearly illustrated on the Landscape Plan and keyed to the Plant List. The landscape plan should include all exterior hard and soft surface elements (site furniture, gates, fences, surfaces, screens, walls), the public realm treatment (to the curb) and all existing or proposed street trees, adjoining landscaping/ grades and public utilities such as lamp posts, hydro poles, fire hydrants.

- (ii) Provision of large scale architectural and landscape sections [typical] through planted areas, including the slab-patio-planter relationship, the lane interface, common areas and upper levels.

Note to Applicant: The sections should include the planter materials, tree stem, canopy and root ball.

- (iii) Provision of large scale detailed elevations/sections for rooftop landscape structures, gates, fences, walls and privacy screens.
 - (iv) Provision of high efficiency irrigation for all planted areas, hose bibs for garden plot areas and private patios of areas equal or greater to 9.3 m² (100 sq. ft.).

Note to Applicant: in addition to hose bibs, drip irrigation should be provided for planters on private patios. Illustrate symbols, written specifications and notations on the landscape plans in this regard.

- (v) Provision of new street trees adjacent to the development site, to be confirmed prior to the issuance of the building permit, to discretion of the General Manager of Engineering.

Note to Applicant: Contact Eileen Curran, Streets Engineering, 604.871.6131, to confirm tree planting locations and Park Board, 604.257.8587 for tree species selection and planting requirements.

- (vi) Provide a notation on the plan, "Final spacing, quantity and tree species to the satisfaction of the General Manager of Engineering Services. New trees must be of good standard, minimum 6cm caliper, and installed with approved root barriers, tree guards and appropriate soil. Root barriers shall be 8 feet long and 18 inches in deep. Planting depth of root ball must be below sidewalk grade. Call Park Board for inspection after tree planting completion".
- (vii) Provision of the following statement on the landscape plans "A landscape plan is to be submitted for review to Engineering Services a minimum of 8 weeks prior to the start of any construction proposed for public property. No work on public property may begin until such plans receive "For Construction" approval and related permits are issued. Please contact your Engineering Services Building Site Inspector or Kevin Cavell at 604.873.7773 for details."

Engineering

- 14. Provision of separate garbage storage facilities for the retail and residential uses.
- 15. Confirmation that the canopy is intended to encroach beyond the Pender Street property line and if so an application to the General Manager of Engineering Services is required. Please confirm bus bench location and review for adequacy of canopy to provide weather protection for bench users prior to submission of a canopy application.
- 16. Provision of required parking.

Note to applicant: A parking shortfall of three spaces is noted. The Parking By-law makes provision for alternative strategies to achieve the required amount of parking including additional car share provision, substitution of Class A bicycle spaces, payment lieu and off-site parking.
- 17. Provision of at least one enhanced Class A loading space is required.

Note to Applicant: A relaxation from one Class B loading space to one enhanced Class A loading space can be supported. Class A loading space provided for this site must be at least 7 m (23 ft.) in length, 2.7 m (8.6 ft.) wide, and 2.8 m (9.2 ft.) high.
- 18. Compliance with the Parking and Loading Design Supplement to the satisfaction of the General Manager of Engineering Services.

Note to Applicant: Please refer to the *Parking and Loading Design Supplement* at the following link:
(<http://former.vancouver.ca/engsvcs/parking/admin/developers.htm>)

- (i) Provision of turning diagrams showing maneuvering in and out of the proposed loading space.

Note to Applicant: Additional length is required for parallel spaces.

- (ii) The portion of the overhead roll up door to be at least 3.65 m (12 ft.) wide.

Note to Applicant: The width of the door does not include the portion obstructed by the retail parking space.

- (iii) Confirmation that existing wood poles do not obstruct access to parking and/or loading entries otherwise arrangements are to be made to the satisfaction of the General Manager of Engineering Services and the applicable utility companies for relocation of the poles.

- 19. Modify the bicycle parking to meet Parking By-law and *Bicycle Parking Design Supplement* requirements.

- (i) Provision of Class B Bicycle parking as per by-law requirement

Note to Applicant: Class B bicycle parking, including parked bicycles, must be contained on private property.

- (ii) Bicycle room(s) must not contain more than 40 bicycle spaces except where the additional bicycle spaces are comprised of lockers.

- (iii) Modify access to the bicycle parking:

- a. Provide automatic door openers on the doors providing access to the bicycle room(s).
- b. Provision of a letter of commitment from the facility operator to allow bicycles in the elevators.
- c. Provide interior elevator dimensions of 1680 mm x 2050 mm for all elevators to accommodate bicycles.

Neighbourhood Energy Utility

- 20. The proposed approach to site heating and cooling, developed in collaboration with the City and the City-designated NES Utility Provider, shall be provided prior to the issuance of any development permit, to the satisfaction of the General Manager of Engineering Services.

21. The building(s) heating and domestic hot water system shall be designed to be easily connectable and compatible with Neighbourhood Energy to supply all heating and domestic hot water requirements. Design provisions related to Neighbourhood Energy compatibility must be to the satisfaction of the General Manager of Engineering Services.

Note to Applicant: The applicant shall refer to the *Neighbourhood Energy Connectivity Standards - Design Guidelines* for general design requirements related to Neighbourhood Energy compatibility at the building scale. The applicant is also encouraged to work closely with City staff during mechanical design to ensure compatibility with a neighbourhood-scale system. As a pre-condition to building permit, a declaration signed by the registered professional of record certifying that the Neighbourhood Energy connectivity requirements have been satisfied will be required.

22. Building-scale space heating and ventilation make-up air shall be provided by hydronic systems without electric resistance heat or distributed heat generating equipment (including but not limited to gas fired make-up air heaters, heat producing fireplaces, distributed heat pumps, etc.) unless otherwise approved by the General Manager of Engineering Services.
23. Provide for 21 m² of adequate and appropriate dedicated space to be utilized for an energy transfer station connecting the building(s) to the City-designated Neighbourhood Energy System, as outlined in the Neighbourhood Energy Connectivity Standards Design Guidelines, at development permit.
24. Detailed design of the building HVAC and mechanical heating system at the building permit stage must be to the satisfaction of the General Manager of Engineering Services

Housing

25. The proposed unit mix including 32 studio (44.5%), 34 one-bedroom units (47.2%) and 6 two-bedroom units (8.3%) is to be included in the Development Permit drawings.

Note to Applicant: Any changes in the unit mix from the proposed rezoning application may only be varied under the discretion of the Director of Planning or Development Permit Board provided that the combined total number of dwelling units designed to be suitable for families with children at 424-428 West Pender Street and 454 West Pender Street does not fall below 25% of the total number of all dwelling units.

26. Design development to ensure that a minimum of 25% of the combined total number of dwelling units of 424-428 West Pender Street and 454 West Pender Street are designed to be suitable for families with children.

27. The building is to comply with the *High-Density Housing for Families with Children Guidelines*, and include a common amenity room with kitchenette and accessible washroom.

Note to Applicant: Indoor and outdoor common amenity areas should be adjacent to one another and have direct visual and physical connection between them.

CONDITIONS OF BY-LAW ENACTMENT

- (c) That, prior to enactment of the CD-1 By-law, the registered owner shall on terms and conditions satisfactory to the Director of Legal Services and to the Director of Planning, the Managing Director of Social Development, the General Manager of Engineering Services, the General Manager of Community Services and Approving Officer, as necessary, and at the sole cost and expense of the owner/developer, make arrangements for the following:

Engineering

1. Consolidation of Lots 5 & 6, Block 35, DL 541, Plan 210 to create a single parcel.
2. Provision of building setback and a surface statutory right-of-way (SRW) to achieve a 4.5 m (14.8 ft.) distance from the back of the City curb to the building face on Pender St. A legal survey of the existing dimension from the back of the City curb to the existing property line is required to determine the final setback/SRW dimension. Note doors are not to swing over the setback line.
3. Provision of a Services Agreement to detail the on and off-site works and services necessary or incidental to the servicing of the site (collectively called the "Services") such that they are designed, constructed and installed at no cost to the City and all necessary street dedications and rights of way for the services are provided. No development permit for the site will be issued until the security for the services are provided.
 - (i) Provision of new concrete sidewalks adjacent the site in keeping with the area standards.
 - (ii) Provision of a bench to serve the adjacent bus stop to be located on public property below the proposed awning/canopy. Please note the canopy width is to be adequately sized to provide weather protection for bench users.
 - (iii) Provision of street trees adjacent the site where space permits. Note that bus stop requirements may impact tree placement. Please contact engineering services for bus stop details.
 - (iv) Provision of adequate water service to meet the fire flow demands of the project. The current application lacks the details to determine if water main upgrading is required. Please supply project details including projected fire flow demands as

determined by the applicant's mechanical consultant to determine if water system upgrading is required. Should upgrading be necessary then arrangements to the satisfaction of the General Manager of Engineering Services and the Director of Legal Services will be required to secure payment for the upgrading. The developer is responsible for 100% of any water system upgrading that may be required.

(v) Provision of adequate sewer (storm and sanitary) service to meet the demands of the project. The current application lacks the details to determine if sewer main upgrading is required. Please supply project details including floor area, projected fixture counts and other details as required by the City Engineer to determine if sewer system upgrading is required. Should upgrading be necessary then arrangements to the satisfaction of the General Manager of Engineering Services and the Director of Legal Services will be required to secure payment for the upgrading. The developer is responsible for 100% of any sewer system upgrading that may be required.

4. Provision of all utility services to be underground from the closest existing suitable service point. All electrical services to the site must be primary with all electrical plant, which include but are not limited to, junction boxes, switchgear, pad mounted transformers and kiosks (including non BC Hydro Kiosks) are to be located on private property with no reliance on public property for placement of these features. There will be no reliance on secondary voltage from the existing overhead electrical network on the street right-of-way. Any alterations to the existing overhead/underground utility network to accommodate this development will require approval by the Utilities Management Branch. The applicant may be required to show details of how the site will be provided with all services being underground.
5. Confirm that the rooftop-level canopy above the eighth floor shown in the renderings is intended to encroach onto Pender Street; and if so, make arrangements (legal agreements) to the satisfaction of the General Manager of Engineering Services and the Director of Legal Services. Any encroaching elements are to be lightweight and demountable, and the applicant must provide rationale (i.e. that they are necessary in order to meet LEED or other standards).

Note to Applicant: An application to the City Surveyor is required. For general information, see the *Building Encroachments Guide*.

6. Provision of a natural watercourse agreement. Records indicate a natural watercourse passes through this site, a legal agreement should be provided, ensuring that should the watercourse be discovered or impact the site during development and beyond that its flow will not be obstructed.
7. Enter into a Shared Vehicle Agreement with the City to secure the provision, operation and maintenance of four Shared Vehicle(s) and the provision and maintenance of four Shared Vehicle Parking Space(s) for

use exclusively by such Shared Vehicle(s), with such parking spaces to be in addition to the minimum parking spaces required by the Parking By-law, on terms and conditions satisfactory to the General Manager of Engineering Services and the Director of Legal Services, including the following:

- (i) Provide four Shared Vehicle(s) to the development for a minimum period of three years;
- (ii) Enter into an agreement with a Shared Vehicle Organization satisfactory to the General Manager of Engineering Services to secure the operation and maintenance of the Shared Vehicle(s);
- (iii) Provide and maintain the Shared Vehicle Parking Space(s) for use exclusively by such shared vehicles;
- (iv) Make arrangements to allow members of the Shared Vehicle Organization access to the Shared Vehicle Parking Space(s);
- (v) Provide security in the form of a Letter of Credit for \$50,000 per Shared Vehicle; and
- (vi) Registration of the Shared Vehicle Agreement against the title to the development, with such priority as the Director of Legal Services may require and including a covenant under section 219 of the Land Title Act of British Columbia, a statutory right of way, or other instrument satisfactory to the Director of Legal Services, securing these conditions.
- (vii) Updating of the existing letter of commitment from a car share company indicating their willingness to supply four car share vehicles on this site at building occupancy.

Note to Applicant: All shared vehicle spaces are required to be full sized and a minimum width of 2.9 m (9.5 ft.), and may not be small car space, nor behind added gates, unless agreed to by the car share company and the City.

8. Provision of a shared use loading agreement to allow the loading to be available for both retail and residential users.

Neighbourhood Energy Utility

9. Enter into such agreements as the General Manager of Engineering Services and the Director of Legal Services determine are necessary for connection to a City-designated Neighbourhood Energy System (NES), if and when the opportunity is available and in accordance with the City's *Neighbourhood Energy Strategy* and the that may include but are not limited to agreements which:
 - (i) Require buildings within the development to connect to the City-designated Neighbourhood Energy System at such time that a system becomes available;

Note to Applicant: The Development will be required to connect to a NES prior to occupancy if the General Manager of Engineering Services deems a connection is available and appropriate at the time of development permit issuance. If connection to a NES is not available at that time, the agreement will provide for future connection.

- (ii) Grant access to the mechanical system and thermal energy system-related infrastructure within the development for the purpose of enabling NES connection and operation; and
- (iii) Grant use of and access to suitable space required for the purposes of an energy transfer station as established in the *Neighbourhood Energy Connectivity Standards Design Guidelines*, to the satisfaction of the General Manager of Engineering Services.

Note to Applicant: Until a City-designated NES utility provider has been identified, the Owner will be prohibited from entering into any third party energy supply contract for thermal energy services, other than conventional electricity and natural gas connections, unless otherwise approved by the General Manager of Engineering Services.

Note to Applicant: At the building permit stage, the applicant will be required to submit final detailed drawings, signed and sealed by a professional engineer where necessary, for review by Engineering Services to confirm final room dimensions and technical information.

Housing

10. Make arrangements to the satisfaction of the General Manager of Community Services and the Director of Legal Services to enter into an agreement securing all residential units as rental housing for the longer of 60 years or the life of the building, and subject to the following additional conditions:
 - (i) A no separate-sales covenant.
 - (ii) A non-stratification covenant.
 - (iii) None of such units will be rented for less than one month at a time.
 - (iv) Such other terms and conditions as the General Manager of Community Services and the Director of Legal Services may in their sole discretion require.

Note to Applicant: The General Manager of Community Services may also require the applicant to enter into such additional agreements as may be required to ensure that 454 West Pender Street and 424-428 West Pender Street are developed and completed concurrently such that the minimum 25% family unit required is actually delivered.

11. To secure achievement of the 25% family housing requirement for rental housing as measured across both the subject site at 424-428 West Pender Street and its companion project at 454 West Pender Street, the zoning by-law for 454 West Pender Street must be enacted prior to enactment of the by-law for the subject site.

Note to Applicant: The 44% family housing requirement specified for 454 West Pender Street must be secured in a legal agreement (Section 219 covenant) for that site, before the by-law for the subject site can proceed to enactment. Should the applicant wish to proceed with enactment of the by-law for the subject site prior to enactment of the by-law for 454 West Pender Street, the housing mix for the subject site must be adjusted to require a minimum 25% family units and the Conditions of Use section of its draft by-law must be likewise amended.

Environmental Contamination (formerly Soils)

12. If applicable:
 - (i) Submit a site profile to Environmental Services (Environmental Protection);
 - (ii) As required by the Manager of Environmental Services and the Director of Legal Services in their discretion, do all things and/or enter into such agreements deemed necessary to fulfill the requirements of Section 571(B) of the Vancouver Charter; and
 - (iii) If required by the Manager of Environmental Services and the Director of Legal Services in their discretion, enter into a remediation agreement for the remediation of the site and any contaminants which have migrated from the site on terms and conditions satisfactory to the Manager of Environmental Services, the General Manager of Engineering Services and Director of Legal Services, including a Section 219 Covenant that there will be no occupancy of any buildings or improvements on the site constructed pursuant to this rezoning until separate Certificates of Compliance satisfactory to the City for the on-site and off-site contamination, issued by the Ministry of Environment, have been provided to the City.

Note: Where the Director of Legal Services deems appropriate, the preceding agreements are to be drawn, not only as personal covenants of the property owners, but also as Covenants pursuant to Section 219 of the Land Title Act.

The preceding agreements are to be registered in the appropriate Land Title Office, with priority over such other liens, charges and encumbrances affecting the subject sites as is considered advisable by the Director of Legal Services, and otherwise to the satisfaction of the Director of Legal Services prior to enactment of the by-laws.

The preceding agreements shall provide security to the City including indemnities, warranties, equitable charges, letters of credit and withholding of

permits, as deemed necessary by and in a form satisfactory to the Director of Legal Services. The timing of all required payments, if any, shall be determined by the appropriate City official having responsibility for each particular agreement, who may consult other City officials and City Council.

- B. THAT the application to amend Schedule E of the Sign By-law to establish regulations for this CD-1 in accordance with Schedule B to the Sign By-law [assigned Schedule "B" (DD)], generally as set out in Appendix C of the Policy Report dated, October 4, 2016 entitled "CD-1 Rezoning: 424-428 West Pender Street", be approved.
- C. THAT, subject to enactment of the CD-1 By-law, the Director of Legal Services be instructed to bring forward the amendment to the Noise Control By-law, generally as set out in Appendix C of the Policy Report dated, October 4, 2016 entitled "CD-1 Rezoning: 424-428 West Pender Street".
- D. THAT, subject to enactment of the CD-1 By-law, the Director of Legal Services be instructed to bring forward the amendment to the Parking By-law, generally as set out in Appendix C of the Policy Report dated, October 4, 2016 entitled "CD-1 Rezoning: 424-428 West Pender Street".
- E. THAT Recommendations A through D be adopted on the following conditions:
 - (i) THAT the passage of the above resolutions creates no legal rights for the applicant or any other person, or obligation on the part of the City; any expenditure of funds or incurring of costs is at the risk of the person making the expenditure or incurring the cost;
 - (ii) THAT any approval that may be granted following the Public Hearing shall not obligate the City to enact a bylaw rezoning the property, and any costs incurred in fulfilling requirements imposed as a condition of rezoning are at the risk of the property owner; and
 - (iii) THAT the City and all its officials, including the Approving Officer, shall not in any way be limited or directed in the exercise of their authority or discretion, regardless of when they are called upon to exercise such authority or discretion.

[RZ - 424-428 West Pender Street]