

SUMMARY AND RECOMMENDATION

3. REZONING: 2-88 West 1st Avenue, 2-26 East 1st Avenue and 27-99 West 2nd Avenue

Summary: To rezone from M-2 Industrial District to CD-1 Comprehensive Development District to permit development of 6 primarily residential mid-rise buildings ranging from 4 to 15 storeys with commercial at grade on Manitoba St. in the Southeast False Creek Official Development Plan (SEFC ODP) area.

Applicant: Brian Martin, Pinnacle International (West First) Plaza Inc.

Recommended Approval: By the Director of Current Planning

- A. THAT the application by Pinnacle International (West First) Plaza Inc. to rezone 2 - 88 West 1st Avenue (E1/2 of Lot1, W1/2 of Lot 1, Lots 2-8, Blk 9, DL 200A, Plan 197), 27 - 99 West 2nd Avenue (Lots 11-16, Blk 9, DL 200A, Plan 197) and 2 - 26 East 1st Avenue (Lots 1-3, Blk 8, DL 200A, Plan 197) from M-2 to CD-1 (Comprehensive Development District), generally as presented in Appendix A to Policy Report "CD-1 Rezoning: 2 - 88 West 1st Avenue, 2 - 26 East 1st Avenue and 27 - 99 West 2nd Avenue" dated June 23, 2006, be approved, subject to the following conditions:

FORM OF DEVELOPMENT

- (a) THAT the proposed form of development be approved by Council in principle, generally as prepared by Howard Bingham Hill Architects, and stamped "Received Planning Department, March 24, 2006", provided that the Director of Planning or the Development Permit Board, as the case may be, 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 final approval by Council of the form of development, the applicant shall obtain approval of a development application by the Director of Planning, or Development Permit Board, who shall consider the following conditions:

DESIGN DEVELOPMENT - GENERAL

- (i) design development to achieve an architectural response to the tower on Sub-Area 3 which emphasizes the landmark focus as seen from points north;
- (ii) design development to provide improved daylight access and privacy to residential units;

Note to Applicant: The objective is to maintain approximately 24.4 m separation between main living spaces facing each other above the 2nd floor across Ontario and Manitoba Streets. Primary living spaces for units adjacent to the lane should be oriented east or west;

- (iii) provide high quality, durable architectural materials and detailing including rain protection overhangs;

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- (iv) consideration to provide a shared roof amenity on the roof of the mid-rises;

CPTED (Crime Prevention through Environmental Design)

- (v) design development to take into consideration the principles of CPTED (Crime Prevention Through Environmental Design) having particular regard to reducing opportunities for:
- theft in the underground parking areas,
 - providing full secure separation for residential uses and parking,
 - residential break and enter,
 - mischief such as graffiti and alcove areas, and
 - increasing the defensibility of the ground level pathway,

LANDSCAPE DESIGN

Public, Semi-Public Realm Treatment

- (vi) provision of semi-public and semi-private spaces that are consistent with the South East False Creek Public Realm Plan. Aspects to consider include special paving, lighting, planting, driveway crossings, pedestrian entrances, walkways, permanent site furniture, weather protection, garbage storage, recycling and loading facilities;
- (vii) design development to provide a more public lane interface with the ground level open space on site;

Note to Applicant: A fully public setback to be provided adjacent to the lane including walking area with specialty paving, bench seating, lighting and landscaping. The remainder of the open space should transition from public, semi-private to private open spaces striving not to use fencing or gating.

Technical

- (viii) provision at time of development permit application of a full Landscape Plan illustrating propose plant materials (common and botanical names), sizes and quantities; notation of existing trees to be retained, paving, walls, fences, light fixtures and other landscape elements; and site grading. Proposed plant material should be clearly illustrated on the Landscape Plan. The landscape plan should be at 1:100 (1/8" = 1'-0") minimum scale;
- (ix) provision of large scale (1/4"=1' or 1:50) partial plans, elevations and sections illustrating the detailed treatment of the project's public realm interface at the streets and lanes; including planter walls, stairs, landscaping, soil depth (indicated by underground structures), semi-private patios, and privacy screens;

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Note to Applicant: Grades, retaining walls, walkways and structural elements, such as underground parking, to be designed to provide maximum plant growing depth (exceed BCLNA Landscape Standard). Underground parking roofs may need to be reconfigured to increase soil depth. Underground parking to angle downward at the corner (3 ft. across and 4 ft. down) to increase planting depth for inner boulevard trees and planters. Continuous soil troughs for street and lane trees and climbing plants for walls should be provided wherever possible.)

- (x) provision at the time of development permit application of a Lighting Plan for each site;
- (xi) provision of hose bibs for all patios that cannot be serviced by at grade non-potable water;

Specific Landscape Conditions

- (xii) provision of a landscape plan for the two intensive green roofs for Building B in Sub-area 1 and Building B in Sub-area 2. Page 11 of the design rational describes these roofs as amenity spaces for the residents. These intensive green roofs spaces should contain common space for use by all the building occupants as well as private patios. Their design should incorporate the collection and passage of water to areas of water storage;

Note to Applicant: A detailed program and a landscape plan for these intensive green roofs will ensure clear functionality and good design. For instance, gardening plots may require special watering facilities, storage of tools, and compost areas nearby, or risk being non-viable. Rooftop gardens may have special access or have safety requirements. Many spaces will have a multi-functional component with passive and active uses combined.

- (xiii) provision of landscape elevations illustrating the buildings with the proposed landscape treatment at the lane edge;

Bicycle Parking

- (xiv) design development to provide bicycle parking spaces meeting Parking By-law requirements;

ENVIRONMENTAL SUSTAINABILITY

- (xv) applicant to achieve the SEFC Green Building Strategy and meet a minimum LEED™ Silver Canada Certified standard (with a target of 36 points), including City of Vancouver prerequisites (with full LEED™ registration and documentation) or equivalency;

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Energy

- (xvi) provide energy efficient design and modelling results to meet or exceed the CBIP (Commercial Buildings Incentive Program) standard for energy efficiency;
- (xvii) provide full building design to meet ASHRAE 90.1 2004 in its entirety (with the exception of outright energy efficiency, which is covered under provision "xvii", above) including:
- improved envelope options such as "continuous insulation", increased r-values, and thermal breaks for balconies and slab extensions
 - energy efficient lighting
 - air exchange effectiveness
 - full best practice building systems commissioning
 - daylighting
 - provision of vestibules where necessary;

Note to Applicant: A letter from a professional engineer trained in building commissioning outlining provision for this service to be submitted at the time of application for Building Permit.

- (xviii) provide compatible, energy efficient design and details of the heating and domestic hot water for the referenced connection to the "district heating system" proposed for the area;
- (xix) provide vertical glazing to a maximum of 40 percent or provide additional thermal measure such as low-e glass to compensate for the additional heat loss;
- (xx) provide roughed-in capacity for future individual metering for energy and water supplies;
- (xxi) provide climate zone control for residential and live-work units;
- (xxii) provision of fireplaces listed as a heating appliance with a minimum combustion efficiency to meet or exceed ASHRAE/IESNA Standard 90.1 - 2001 heating appliance standards. No continuous pilot lights; interrupted power ignition is preferred;

Note to Applicant: A letter from a professional engineer outlining provision for these features to be submitted at the time of application for Building Permit.

Stormwater Management and Green Roofs

- (xxiii) provision of a green roof (including a useable, intensive roof and/or inaccessible, extensive roof) on principle building roofs;

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- (xxiv) provision of effective impervious area of no more than 60 percent of total site area with 30 percent of useable intensive green roof area in soft landscape (this includes drop off areas, walkways rooftops and plazas);
- (xxv) provision of best current practices for managing water conservation including high efficiency irrigation, aspects of xeriscaping including drought-tolerant plant selection and mulching;
- (xxvi) design development to reduce the use of potable water for irrigation through the provision of a stormwater retention system (i.e., cistern, on-site pond, infiltration galleries, etc.);

Note to Applicant: Provide a stormwater retention system separated from the potable water system (dual system) for the irrigation of the ground level semi-private open spaces and public realm landscaping to be sized for the summer drought periods. In addition, water storage for the roof top shared open space to be considered. All hose bibs to be served with potable water unless clearly indicated otherwise. This system to be designed in coordination with Building - Processing.

- (xxvii) provide details and arrangements for connection and flow rates to meet the SEFC Stormwater Management Plan (see engineering condition "c iii");
- (xxviii) provision of green roof design to meet structural load, soil depths, and access & egress conditions necessary for an intensive green roof/urban agriculture (regardless of initial roof design - intensive or extensive);

Note to Applicant: A letter from a professional engineer outlining provision for these features to be submitted at the time of application for Building Permit.

In-Building Water Efficiency

- (xxix) provide low water use plumbing fixtures at or below 1.8 gpm for faucets and showerheads and 6L/3L dual flush toilets;

Note to Applicant: A letter from a professional engineer outlining provision for these features to be submitted at the time of application for Building Permit.

Urban Agriculture

- (xxx) Design development to incorporate the objectives of urban agriculture including provision of garden plots of an adequate size and number to be productive and viable. The total amount of gardening spaces should be appropriate for the size of development. Locate gardening plots to maximize sunlight and respond to programming requirements such as

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providing an area for composting, non-potable water/irrigation systems, and suitable soil volumes;

Note to Applicant: Explore opportunities to expand the area designated for garden plots, e.g. by using the green roof panels on the tower roof, so that a minimum of 30 percent of the units without private garden space (not balconies) have access to a private garden plot. Note that the existing garden plots of approximately 4 by 12 ft. can be counted as 2 plots if need to reach the 30 percent goal. Regarding the relationship between the proposed play areas and the proposed garden plots on Landscape level 1, explore opportunities to further integrate these areas in order to facilitate children's involvement in gardening and to support parent's ability to garden and monitor children's activities.

Building Durability

(xxxiii) provide high quality, durable architectural materials and detailing including rain protection overhangs to meet or exceed CSA Guidelines on Durability in Buildings;

Waste Management

(xxxiv) provide a Construction and Demolition Waste Management Plan at the time of application for Building Permit ensuring that a minimum of 75 percent landfill diversion through the construction process;

UNIVERSAL DESIGN

(xxxv) Applicant to work with a Universal Design consultant to achieve the objectives for Universal Design in reference to "The Safer Home Certification Criteria" as outlined in Appendix F.

AGREEMENTS

(c) THAT, prior to enactment of the CD-1 By-law, each of the registered owners shall, at no cost to the City make arrangements for the following, on terms and conditions satisfactory to the Director of Legal Services:

ENGINEERING

Arrangements are to be made to the satisfaction of the General Manager of Engineering Services and the Director of Legal Services for:

- i make arrangements to the satisfaction of the General Manager of Engineering Services, in consultation with the Director of Planning, for:
 - a. the provision, operation, and maintenance of two Co-operative Vehicles and provision and maintenance of two Co-operative Parking Spaces for the use

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- exclusively by such cooperative vehicles, such parking spaces to be in addition to the minimum parking spaces required by the Parking Bylaw; and
- b. designation of four visitor or surplus parking spaces which are to be publicly accessible for future use by cooperative vehicles.

Sub-Area 1- W½ and E½ of Lot 1 & Lots 2-8, Blk 9, DL 200A, Plan 197

- ii Consolidation of all lots comprising sub-area 1 into a single lot.
- iii Dedication as road of a triangular portion of the site at the northwest corner for open space (plaza) purposes with the potential option of a portion for road.
- iv Dedication of the north 0.8 m of proposed site for road purposes. Delete all encroachments and structures shown beyond the proposed property line.
- v Dedication or other arrangements for the east 5 ft. of proposed sub-area 1 for road purposes. Delete all encroachments and structures shown beyond the proposed property line. (Should the parkade design require use of this proposed dedication area to achieve an approvable parkade design then Engineering may support this area as a surface right of way for public use in lieu of full dedication.)
- vi Provision of a 1.5 m right of way along the south property line of the site (adjacent the lane) for pedestrian purposes.
- vii Provision of appropriate rights of way for public use of the plaza area with access to, from and within the "plaza area with water feature".
- viii Discharge of any crossing agreement made unnecessary by the development, prior to occupancy of the building.
- ix Resolution of annexed easement No. 221860M (over portions of lot 10).
- x Provision of new sidewalks, curb, pavement, concrete lane crossings, lamp standards, street trees and street furniture adjacent the site in keeping with the final SEFC public realm design requirements.
- xi Improvements to the lane south of 1st Avenue from Manitoba Street to Ontario Street in keeping with the final SEFC public realm design approvals.
- xii Provision of water system upgrading to service the proposed development. Note: Water system designs must be completed for the area to determine the need and extent of required system upgrading including pre-servicing needs. Further clarification regarding community gardens servicing is also required before extent of upgrading can be determined.
- xiii Abandonment of the existing 1953 sewer in the lane south of 1st Avenue between Manitoba and Ontario streets. This will require that all storm water flows towards Manitoba Street. Lane grading and design will need development to ensure City drainage needs are met for sewer abandonment.
- xiv Provision of storm system design to meet the development's storm water management plan. (Stantec's plans dated December 6, 2005.) Drawings indicate the inclusion of storm water runoff from sub-area 1 & 2 in this development to Hinge Park wetland. To implement this plan a storm sewer will have to be built at the developers sole expense in the lane south of 1st Avenue from Columbia Street to east of Manitoba Street. Note:

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- Alternatively, storm water from development sites on First and Second avenues at Crowe Street could be substituted.
- xv Undergrounding of all *existing* and *new* utility services from the closest existing suitable service point. All services, and in particular electrical transformers to accommodate a primary service, must be located on private property. The development site is not to rely on secondary voltage from the existing overhead network. Any alterations to the existing underground/overhead utility network to accommodate the development will require review and approval by the Utilities Management Branch. Early contact with the Utilities Management Branch is encouraged.
 - xvi Provision of 3 streams of waste removal for the development (regular garbage, recyclable materials and organics). The development site is to provide adequate space to accommodate 3 streams of waste removal including fully outfitted areas that can be made active upon implementation of organics collection system.
 - xvii Building design is to include provision for connections to and be compatible with the "district heating system" proposed for the area.

Sub-Area 2 - Lots 11-16, Blk 9, DL 200A, Plan 197

- xviii Consolidation of all lots comprising sub-area 2 into a single lot.
- xix Dedication of the south 5 ft. of proposed sub-area 2 is required for road purposes. (Should the parkade design require use of this proposed dedication area to achieve an approvable parkade design, then Engineering may support this area as a surface right of way for public use in lieu of full dedication.)
- xx Provision of a 1.5 m right of way along the north property line of the site (the lane) for pedestrian purposes.
- xxi Discharge of any crossing agreement made unnecessary by the development, prior to occupancy of the building.
- xxii Provision of new sidewalks, curb, pavement, concrete lane crossings, lamp standards, street trees and street furniture adjacent the site in keeping with the final SEFC public realm design requirements.
- xxiii Improvements to the lane south of 1st Avenue from Manitoba Street to the east property line of the site in keeping with the final SEFC public realm design approvals.
- xxiv Provision of water system upgrading to service the proposed development. Note: Water system designs must be completed for the area to determine the need and extent of required system upgrading including pre-servicing needs. Further clarification regarding community gardens servicing is also required.
- xxv Abandonment of the existing 1953 sewer is in the lane south of 1st Avenue between Manitoba and Ontario streets. This will require that all storm water flows towards Manitoba Street. Lane grading and design will need development to ensure City drainage needs are met.
- xxvi Provision of storm system design to meet the development's storm water management plan. (Stantec's plans dated December 6, 2005.) Drawings indicate the inclusion of storm water runoff from sub-area 1 & 2 in this development to Hinge Park wetland. To implement this plan a storm sewer will have to be built fully at the developers expense in

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the lane south of 1st Avenue from Columbia to east of Manitoba streets. Note: Alternatively, storm water from development sites on First and Second avenues at Crowe Street could be substituted.

- xxvii Undergrounding of all *existing* and *new* utility services from the closest existing suitable service point. All services, and in particular electrical transformers to accommodate a primary service, must be located on private property. The development site is not to rely on secondary voltage from the existing overhead network. Any alterations to the existing underground/overhead utility network to accommodate the development will require review and approval by the Utilities Management Branch. Early contact with the Utilities Management Branch is encouraged.
- xxviii Provision of 3 streams of waste removal for the development (regular garbage, recyclable materials and organics). The development site is to provide adequate space to accommodate 3 streams of waste removal include fully outfitted areas that can be made active upon implementation of organics collection system.
- xxix Building design is to include provision for connections to and be compatible with the "district heating system" proposed for the area.

Sub-Area 3- Lots 1-3, Blk 8, DL 200A, Plan 197

- xxx Consolidation of all lots comprising sub-area 3 into a single lot.
- xxxi Dedication of the north 0.8 m of proposed site for road purposes. Delete all encroachments and structures shown beyond the proposed property line.
- xxxii Dedication or other arrangements for the west 5 ft. of proposed site for road purposes. Delete all encroachments and structures shown beyond the proposed property line. (Should the parkade design require use of this proposed dedication area to achieve an approvable parkade design then Engineering would support this area as a surface right of way for public use in lieu of full dedication.)
- xxxiii Provision of a 1.5 m right of way along the south property line of the site (adjacent the lane) for pedestrian purposes.
- xxxiv Discharge of any crossing agreement made unnecessary by the development, prior to occupancy of the building.
- xxxv Provision of new sidewalks, curb, pavement, concrete lane crossings, lamp standards, street trees and street furniture adjacent the site in keeping with the final SEFC public realm design requirements.
- xxxvi Improvements to the lane south of 1st Avenue from Ontario Street to the east property line of the site in keeping with the final SEFC public realm design approvals.
- xxxvii Provision of water system upgrading to service the proposed development. Note: Water system designs must be completed for the area to determine the need and extent of required system upgrading including pre-servicing needs. Further clarification regarding community gardens servicing is also required.
- xxxviii Provision of a storm sewer extension in the lane south of 1st Avenue between Ontario and Quebec streets to provide drainage for the west end of the lane. This condition could be reduced or eliminated upon completion of detailed road designs that do not require the provision of catch basins for this lane.

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- xxxix Undergrounding of all *existing* and *new* utility services from the closest existing suitable service point. All services, and in particular electrical transformers to accommodate a primary service, must be located on private property. The development site is not to rely on secondary voltage from the existing overhead network. Any alterations to the existing underground/overhead utility network to accommodate the development will require review and approval by the Utilities Management Branch. Early contact with the Utilities Management Branch is encouraged.
- xl Provision of 3 streams of waste removal for the development (regular garbage, recyclable materials and organics). The development site is to provide adequate space to accommodate 3 streams of waste removal include fully outfitted areas that can be made active upon implementation of organics collection system.
- xli Building design is to include provision for connections to and be compatible with the "district heating system" proposed for the area.
- xlii Provision of a shared vehicle ramp with knock-out panel for future access to underground parking and services for adjacent site.

SOILS

- xlili The property owner shall, as required by the Manager of Environmental Protection 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.
- xliv Execute a Section 219 Covenant, as required by the Manager of Environmental Protection and the Director of Legal Services in their discretion, that there will be no occupancy of any buildings or improvements on the site constructed pursuant to this rezoning, until Certificates of Compliance have been provided to the City by the Ministry of Water, Land and Air Protection.

OLYMPIC SECURITY REQUIREMENTS

For Sub-Area 1 and Sub-Area 3 the following condition shall apply:

- xlvi enter into a legal agreement, on terms and conditions acceptable to the City's Director of Legal Services and the City's General Manager of Olympic Operations (the "Security Agreement") which shall, inter alia, provide for the following:
 - (A) the Owner may make application for a development permit and a building permit pursuant to the Rezoning at any time, provided however that if the Owner commences construction of the improvements permitted pursuant to the Rezoning (the "Improvements"), the Improvements shall be completed, at a minimum, to "lock down" (including, without limitation, completion of all doors and windows to the satisfaction of the City's Chief Building Official) on or before January 12, 2010;

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- (B) prior to issuance of any building permit for the Improvements, the Owner shall be required to lodge a letter of credit with the City, on terms acceptable to the Director of Legal Services, in an amount deemed adequate by the Chief Building Official, in his sole opinion, to secure completion of the Improvements to lock down prior to January 12, 2010;
- (C) the Owner acknowledges and agrees that the Chief Building Official shall inspect the Improvements on or before October 12, 2009 and shall determine whether or not, in his opinion, the Improvements will be completed to lock down prior to January 12, 2010. If the Chief Building Official is not satisfied that lock down will be achieved by January 12, 2010, the Chief Building Official may order that the Owner take all necessary steps to ensure that lock down can be achieved by January 12, 2010 and the Owner shall take all necessary steps to do so at the Owner's cost. Alternatively, the Chief Building Official may, in his sole discretion, permit the City, or its permittees or licensees to complete the Improvements to lock down, at the cost and risk of the Owner;
- (D) the Owner acknowledges and agrees that notwithstanding that the Owner may construct the Improvements, the Owner may not occupy, or permit occupation of the Improvements, other than for site servicing, construction, maintenance and security purposes, prior to January 12, 2010;
- (E) the Owner shall not access or use the Lands for any purpose other than maintenance of and security for the Improvements during the period between January 12, 2010 and p.m. March 12, 2010. The Owner and the Owner's personnel shall comply with any security protocols established by the City during such access or use;
- (F) the Owner shall permit the City and its permittees and licensees, including without limitation the Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games ("VANOC") and any security organizations responsible for security for the 2010 Olympic Winter Games, to enter the Lands and any buildings and improvements located thereon at any time, and from to time, from December 1, 2009 to January 11, 2010 for security planning purposes and from January 12, 2010 to March 12, 2010 for any security purposes they deem necessary or desirable for the purpose of providing security protection for the Vancouver Olympic Village;
- (G) the Owner shall, during the period January 12, 2010 through March 12, 2010, permit the City and any permittee or licensee of the City including, without limitation, VANOC, access to the Lands and any buildings and improvements located thereon, to erect any fences, security barriers, screens, drapes or other security or pageantry materials or equipment on the Lands deemed necessary by

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the City or any permittee or licensee for the purpose of facilitating the security and decoration of the Vancouver Olympic Athlete's Village (the "Security Fencing"). The Security Fencing will be at the cost of the City, or its permittee or licensee, as the case may be, and shall be at no cost to the Owner; and

- (H) the Owner shall release the City and its officials, officers, employees, contractors and agents ("City Personnel") from any costs, damages (including special, indirect and consequential damages), injuries or liabilities of any kind suffered or incurred by the Owner and/or the Owner's officers, employees, contractors and agents ("Owner's Personnel") which arise due to the use or occupation of the Lands by the City and/or City Personnel and/or any restrictions placed on the Owner's use, occupation and development of the Lands, as set out in the Security Agreement. The Owner shall indemnify and hold harmless the City and City Personnel for any costs, damages (including special, indirect and consequential damages), injuries or liabilities of any kind suffered or incurred by the City or City Personnel due to the breach of any term or condition of the Security Agreement by the Owner and/or the Owner's Personnel;

The Security Agreement shall be fully registered against title to the Lands in the applicable Land Title Office, to the satisfaction of the Director of Legal Services, prior to the enactment of the CD-1 By-law.

For Sub-Area 2 the following condition shall apply:

- xlvi enter into a legal agreement, on terms and conditions acceptable to the City's Director of Legal Services and the City's General Manager of Olympic Operations (the "Security Agreement") which shall, inter alia, provide for the following:
- (A) the Owner may make application for all applicable permits to construct and occupy the improvements permitted pursuant to the Rezoning (the "Improvements") at any time and may construct and occupy the Improvements in accordance with any development permits, building permits and occupancy permits issued in respect of the Improvements. However, if all construction of the Improvements is not fully completed on or before January 12, 2010, the Owner shall, during the period between January 12, 2010 and March 12, 2010:
- 1) cease, or cause to cease, all servicing and/or construction activities on the Lands; and
 - 2) not access or use the Lands for any purpose other than for maintenance of and security for the Improvements. The Owner and the Owner's personnel shall comply with any security protocols established by the City during such access or use;

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- (B) the Owner shall, during the period January 12, 2010 through March 12, 2010, permit the City and any permittee or licensee of the City including, without limitation, VANOC, access to the Lands and any buildings and improvements located thereon, to erect any fences, security barriers, screens, drapes or other security or pageantry materials or equipment on the Lands deemed necessary by the City or any permittee or licensee for the purpose of facilitating the security and decoration of the Vancouver Olympic Athlete's Village (the "Security Fencing"). The Security Fencing will be at the cost of the City, or its permittee or licensee, as the case may be, and shall be at no cost to the Owner;
- (C) the Owner acknowledges and agrees that vehicular and/or pedestrian access to the Lands from Quebec Street may be restricted or unavailable for a period of time before, during and after the 2010 Olympic Winter Games, at the sole discretion of the City Engineer; and
- (D) the Owner shall release the City and its officials, officers, employees, contractors and agents ("City Personnel") from any costs, damages (including special, indirect and consequential damages), injuries or liabilities of any kind suffered or incurred by the Owner and/or the Owner's officers, employees, contractors and agents ("Owner's Personnel") which arise due to the use or occupation of the Lands by the City and/or City Personnel and/or any restrictions placed on the Owner's use, occupation and development of the Lands, as set out in the Security Agreement. The Owner shall indemnify and hold harmless the City and City Personnel for any costs, damages (including special, indirect and consequential damages), injuries or liabilities of any kind suffered or incurred by the City or City Personnel due to the breach of any term or condition of the Security Agreement by the Owner and/or the Owner's Personnel;

The Security Agreement shall be fully registered in the applicable Land Title Office, to the satisfaction of the Director of Legal Services, prior to the enactment of the CD-1 By-law.

PUBLIC ART

- xlvii Execute an agreement, satisfactory to the Directors of Legal Services and the Office of Cultural Affairs for the provision of public art in accordance with the City's Public Art Policy, such agreement to provide for security in a form and amount satisfactory to the aforesaid officials;
- xlviii Submit a preliminary public art plan to the satisfaction of the Director, Office of Cultural Affairs setting out the proposed public art program aims, artist terms of reference, site and artist selection methods, project budget, implementation plan and a schedule; and

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HERITAGE DENSITY

- (xlix) execute a Section 219 Covenant to the satisfaction of the Directors of Current Planning and Legal Services limiting development on the site to a maximum floor area of 33 446.70 m², such covenant to be released from title when the floor area of 696.53 m² has been transferred from a designated heritage property within the South East False Creek Official Development Plan area in relation to which the heritage floor area was received as compensation for the restoration of the heritage site.

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 site 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-law; provided however the Director of Legal Services may, in her sole discretion and on terms she considers advisable, accept tendering of the preceding agreements for registration in the appropriate Land Title Office, to the satisfaction of the Director of Legal Services, prior to enactment of the by-law.

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 Recommendation A 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 by-law 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. - 2-88 West 1st Avenue, 2-26 East 1st Avenue and 27-99 West 2nd Avenue)