



CITY OF VANCOUVER
SPECIAL COUNCIL MEETING MINUTES
SEPTEMBER 26, 2006

A Special Meeting of the Council of the City of Vancouver was held on Tuesday, September 26, 2006, at 7:58 p.m., in the Council Chamber, Third Floor, City Hall, for the purpose of holding a Public Hearing to consider proposed amendments to the Zoning and Development, Sign and Heritage By-laws.

PRESENT:

- Mayor Sam Sullivan
- Councillor Suzanne Anton
- Councillor Elizabeth Ball
- Councillor David Cadman
- Councillor Kim Capri
- Councillor George Chow
- Councillor Heather Deal
- Councillor Peter Ladner
- Councillor B.C. Lee
- Councillor Raymond Louie
- Councillor Tim Stevenson

CITY CLERK'S OFFICE: Laura Kazakoff, Meeting Coordinator

COMMITTEE OF THE WHOLE

MOVED by Councillor Lee
 SECONDED by Councillor Ball

THAT this Council resolve itself into Committee of the Whole, Mayor Sullivan in the Chair, to consider proposed amendments to the Zoning and Development, Sign and Heritage By-laws.

CARRIED UNANIMOUSLY

1. Heritage Revitalization Agreement: 53 West Hastings Street

An application by Gair Williamson, Gair Williamson Architects, was considered as follows:

Summary: Heritage Revitalization Agreement to rehabilitate this heritage building into live-work units with a retail unit at grade in exchange for Heritage Building Rehabilitation Program incentives. A Single Room Accommodation conversion and demolition permit is required.

The Directors of Planning and the Housing Centre recommended approval.

Staff Comments

Cameron Gray, Director, Housing Centre, and Zlatan Jankovic, Planner, Heritage Group, responded to questions regarding the proposed Single Room Accommodation conversion and demolition permit, the Heritage Façade Rehabilitation Program, and the rationale for the proposed property tax exemption with respect to the purchasers of the residential component of this project.

Applicant Comments

Robert Fung, Salient Developments, in response to a question, advised there is no benefit to the developer from the property tax abatement on the residential that will be sold, and noted the applicants would prefer to see that value in density, which would be a tangible benefit to help offset the capital expense of the project.

Summary of Correspondence

Council received no correspondence on this application.

Speakers

The Mayor called for speakers both for and against the application and none were present.

Council Decision

MOVED by Councillor Stevenson

- A. THAT Council authorize the City to enter into a Heritage Revitalization Agreement (HRA) for the site at 53 West Hastings Street, to rehabilitate and protect in perpetuity the municipally-designated, "B" listed Heritage Register building, and to vary the DD District Schedule of the Zoning and Development Bylaw to:
- Grant a density bonus of 99,061sq.ft. available for transfer off site;
 - Limit the development of the site to the built form proposed in Development Application DE410397;
 - Vary the maximum FSR of 5.0 (with up to 3.0 for residential) to allow for an FSR of 6.3 (with 0.32 commercial and 5.98 residential), noting that the existing building is non-conforming with an FSR of 6.7;

FURTHER THAT Council require a covenant providing that the density bonus not be available for transfer until the rehabilitation is complete, unless the owner secures completion of the rehabilitation by a separate agreement, which must be registered on title.

- B. THAT, subject to the approval of A above, Council authorize a façade grant totaling \$50,000 with funding to be provided from the 2005 Capital Budget.

- C. THAT, subject to approval of A above, to assent of the electors or deemed approval by the electors, and to section 396A of the Vancouver Charter, Council exempt 53 West Hastings Street from real property taxation to a value no greater than \$59,260 or for ten (10) years, whichever is first, for the commercial units, and a value no greater than \$125,339 or for three (3) years, whichever is first, for the strata residential units;

FURTHER THAT, subject to assent of the electors to the real property tax exemption by-law or their deemed approval, the Director of Legal Services bring forward the by-law, generally on the terms set out in Appendix A of the Administrative Report dated August 31, 2006, entitled "Heritage Rehabilitation and SRA Conversion/Demolition Permit for 53 West Hastings Street (DE410397)", for enactment which requires 2/3 of votes cast.

- D. THAT the agreements, covenants and by-laws shall be prepared, registered and given priority to the satisfaction of the Director of Legal Services in consultation with the Director of Planning.
- E. AND THAT Council instruct the Director of Legal Services to bring forward for enactment a by-law to authorize the Heritage Revitalization Agreement.
- F. THAT, subject to approval of A above, Council approve a Single Room Accommodation conversion and demolition permit for 53 West Hastings Street to convert and remove 56 designated rooms from the SRA inventory, on the condition that prior to the issuance of the SRA permit, the owner enter into an HRA agreement with the City for the rehabilitation of the building as proposed in Development Application DE410397;

FURTHER THAT, subject to the approval of a Single Room Accommodation conversion and demolition permit for this project, the Director of Legal Services be instructed to remove from title the Housing Agreement currently in place between the City and the previous owner of 53 West Hastings.

CARRIED UNANIMOUSLY AND
B BY THE REQUIRED MAJORITY

2. Heritage Revitalization Agreement: 12 Water Street

An application by Mark Ostry, Acton Ostry Architects Inc., was considered as follows:

Summary: Heritage Revitalization Agreement to rehabilitate, and add to, two heritage buildings and change the use to live-work units with retail units at grade in exchange for Heritage Building Rehabilitation Program incentives.

The Director of Planning recommended approval.

Staff Comments

Robert Jenkins, Assistant Director of Planning, drew Council's attention to his Memorandum dated September 18, 2006 (on file), in which, based on new information, he recommended that the total density bonus available for transfer off site from 12 Water Street be reduced from 114,154 sq.ft. to 108,559 sq.ft.

Applicant Comments

Mark Ostry, Acton Ostry Architects Inc, and Robert Fung, Salient Developments, were present to respond to questions.

Summary of Correspondence

Council received no correspondence on this application.

Speakers

The Mayor called for speakers both for and against the application and none were present.

Council Decision

MOVED by Councillor Deal

- A. THAT Council authorize the City to enter into a Heritage Revitalization Agreement (HRA) for the buildings at 12 Water Street to restore, retain, and construct additions to the existing Heritage "B" and Heritage "C" listed buildings to create a six storey building containing retail and restaurant Class 1 on the ground floor, general office on the second floor, and 34 commercial live/work units on the 3rd to 6th floors, and to grant a density bonus of 108,559 sq. ft. available for transfer off site. The HRA will be registered on title as a legal notation;

FURTHER THAT Council require a covenant providing that the density bonus not be available for transfer until the rehabilitation is complete, unless the owner secures completion of the rehabilitation by a separate agreement which must be registered on title.
- B. THAT, subject to the approval of A above, Council authorize two façade grants for a total of \$100,000 with funding to be provided from the 2005 Capital Budget.
- C. THAT, subject to approval of A above, to assent of the electors or deemed approval by the electors, and to section 396A of the Vancouver Charter, Council exempt 12 Water Street from real property taxation to a value no greater than \$1,033,686 or for ten (10) years, whichever is first, for the commercial units, and a value no greater than \$229,034 or for three (3) years, whichever is first, for the strata residential units.

FURTHER THAT, subject to assent of the electors to the real property tax exemption by-law or their deemed approval, the Director of Legal Services bring forward the by-law, generally on the terms set out in Appendix A of the Administrative Report dated September 1, 2006, entitled "Heritage Building Rehabilitation Program - 12 Water Street (DE 408878)", for enactment which requires two-thirds of votes cast.

- D. THAT the agreements covenants and by-laws shall be prepared, registered and given priority to the satisfaction of the Director of Legal Services in consultation with the Director of Planning.
- E. AND THAT Council instruct the Director of Legal Services to bring forward for enactment a by-law to authorize the Heritage Revitalization Agreement.

CARRIED UNANIMOUSLY AND
B BY THE REQUIRED MAJORITY

3. Heritage Designation: 2543 Pandora Street

An application by Tim Powers and Sheree Butt was considered as follows:

Summary: Heritage Designation to preserve and protect the exterior of this heritage house as part of the Vancouver Heritage Foundation's Restore It grant program.

The Director of Planning recommended approval.

Staff Comments

Hugh McLean, Planning Analyst, Heritage Group, was present to respond to questions.

Applicant Comments

Property owners, Tim Powers and Sheree Butt were present to respond to questions.

Summary of Correspondence

Council received no correspondence on this application.

Speakers

The Mayor called for speakers both for and against the application and none were present.

Council Decision

MOVED by Councillor Capri

- A. THAT Council approve the designation of the Kendrick House at 2543 Pandora Street, listed on the Vancouver Heritage Register in the "C" category, as Protected Heritage Property.
- B. THAT Council commend the building owners for designating their property on a voluntary basis and for participating in the Vancouver Heritage Foundation's *Restore It* program.

CARRIED UNANIMOUSLY

4. Text Amendment: 1128 West Hastings Street

An application by Martin Bruckner, IBI/HB Architects, was considered as follows:

Summary: To amend an existing CD-1 Comprehensive Development District By-law to permit a small increase in floor space ratio for a hotel meeting room through the addition of a floor in an existing double height meeting room.

The Director of Planning recommended approval, subject to the conditions set out in the Agenda of the Public Hearing.

Staff Comments

Phil Mondor, Rezoning Planner, in response to a question, provided information regarding the status of banked heritage density and the process regarding heritage bonus density transfers.

Applicant Comments

Martin Bruckner, IBI/HB Architects, and Carlo Meola, Pinnacle International, were present to respond to questions.

Summary of Correspondence

Council received no correspondence on this application since it was referred to Public Hearing.

Speakers

The Mayor called for speakers both for and against the application and none were present.

Council Decision

MOVED by Councillor Anton

THAT the application by IBI/HB Architects, to amend CD-1 By-law No. 8439 (reference No 409) for 1128 West Hastings Street (Strata Lots 1-466, DL 185, Strata Plan LMS 4107 and Strata Lots 1-39, DL 185, Strata Plan LMS 4114) to permit a small increase in floor space ratio, generally as presented in Appendix A to Policy Report "CD-1 Text Amendment - 1128 West Hastings Street" dated July 4, 2006", be approved, subject to the following conditions:

FORM OF DEVELOPMENT

THAT the proposed amendment to the form of development be approved by Council in principle, generally as prepared by IBI/HB Architects, and stamped "Received Planning Department, June 30, 2006", provided that the Director of Planning may allow minor alterations when approving the detailed scheme of development.

AGREEMENTS

THAT the registered owner's offer of a contribution be accepted and that, prior to enactment of the CD-1 By-law amendment, such offer be secured to the satisfaction of the Director of Legal Services through an agreement confirming that the registered owner has purchased heritage bonus density with value of \$180,000 from a suitable heritage donor site.

CARRIED UNANIMOUSLY

5. Rezoning: 102 - 160 West 1st Avenue

An application by Gomberoff Bell Lyon Architects on behalf of Wall Financial Corporation, was considered as follows:

Summary: To rezone from M-2 Industrial District to CD-1 Comprehensive Development District a site in the Southeast False Creek Official Development Plan (SEFC ODP) area to permit development of four mid-rise residential buildings, the highest being 15-storeys, plus a cultural amenity for the Playhouse Theatre Company.

The Director of Planning and the Managing Director of Cultural Services recommended approval.

Staff Comments

John Madden, Planner, provided an overview of the application.

Applicant Comments

Stuart Lyon, GBL Architects Group and Bruno Wall, Wall Financial Corp., were present to respond to questions.

Summary of Correspondence

Council received no correspondence on this application since it was referred to Public Hearing.

Speakers

The Mayor called for speakers both for and against the application.

Darlene Howard, Playhouse Theatre, spoke in support of the application and noted the project represents another positive step for Vancouver in building a world class city. She advised the Playhouse and its Board of Governors fully support the rezoning and are committed to the project which will allow them to showcase their works in a dynamic new space.

Council Decision

MOVED by Councillor Ball

- A. THAT the application by GBL Architects on behalf of Wall Financial Corporation to rezone 102 to 160 West 1st Avenue (Lots 1 to 6,7 AMD, 8 AMD, and 9-12, Blk 10, DL 200A, Plan 197) from M-2 to CD-1, generally as presented in Appendix A to Policy Report "CD-1 Rezoning and Cultural Amenity Bonus: 102 - 160 West 1st Avenue (Playhouse Theatre Company Site)" dated July 12, 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 Gomberoff Bell Lyon Architects Group Inc., and stamped "Received Planning Department, April 19, 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 the theatre uses on the street and mews to maximize interaction and pedestrian amenity through the use of display windows, openings and continuous weather protection on the streets;
- (ii) design development to improve livability and ensure privacy to residential units facing the lane at the upper levels to accommodate future mid-rise massing on the site to the south, across the lane;

Note to Applicant: This can be achieved by ensuring all primary living spaces face east or west with secondary living spaces such as bedrooms only facing the lane and by refining the mid-rise and tower massing at the upper levels to narrow the width or provide additional setbacks.

- (iii) provide high quality, durable architectural materials and detailing including rain protection overhangs and response to solar orientation;
- (iv) design development to the Manitoba Street sidewalk and public realm to ensure adequate width to allow outdoor display of goods, seating, and other commercial activities adjacent to the building edge;
- (v) design development to include an accessible washroom associated with the building's amenity room in accordance with the City's High Density Housing for Families with Children Guidelines;

CPTED (Crime Prevention through Environmental Design)

- (vi) design development to take into consideration the principles of CPTED having particular regard to reducing opportunities for:
 - theft in the underground parking;
 - ground level break and enter;
 - mail theft;
 - mischief in alcoves and on the public walkway; and
 - graffiti on blank wall surfaces.

LANDSCAPE DESIGN

Public, Semi-Public Realm Treatment

- (vii) 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;

- (viii) design development to improve the landscape response to the building walls and setback areas on the lane by providing 'green walls' and hedging within the setback areas;

Technical

- (ix) provision of a full Landscape Plan illustrating proposed 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;
- (x) 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;

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.

- (xi) provision at the time of development permit application of a detailed Landscape Design Rationale explaining the programming and uses of outdoor spaces and landscape structures. This should include a discussion of any aspects of landscaping sustainability that are proposed for the site such as landscaped lane treatments, continuous trenches for tree pits, green walls, extensive green roofs, use of captured stormwater for irrigation or water features or provisions for urban agriculture.
- (xii) provision at the time of development permit application of a Lighting Plan for the site;
- (xiii) provision of hose bibs for all patios that cannot be serviced by at grade non-potable water;

Specific Landscape Conditions

- (xiv) design development to the public pedestrian mews to provide a safe and pedestrian friendly walking connection between West 1st Avenue and the lane. The space should be visually accessible from the street and from the lane. The separation between the public space and the townhouse patios should be well defined. There should be partial views through from the patios to the public walkway to provide 'eyes on the street';

Note to applicant: The walls at the south end of the pool should be deleted as they block views into the commons. Consideration should be given to having a central pathway instead of two pathways at each side of the space. Grade level planting bed could be added in front of the raised patio areas to provide additional separation between the spaces. Security gates should be provided if the commons is to be locked at night. Pedestrian level lighting should be provided if the commons is to remain open at night. The walkways to the townhouses facing the commons should be provided with gates.

- (xv) design development to the south facing courtyard adjacent to the lane to delete the proposed evergreen trees and provide enough deciduous trees to allow some sunlight and some shade for the children's play area in summer. The lane edge planter and fencing should provide some transparency as well as security for this courtyard space;
- (xvi) design development to maximize the landscape at the NE and NW corner bulges by extending the planting areas consistent with the SEFC Public Realm Plan;
- (xvii) design development to the public realm to provide a clear and consistent public walkway surface to ensure sight-challenged pedestrians and wheel chair occupants can safely travel the public sidewalk. Any special paving to be interrupted to allow the main walkway paving to be continuous;
- (xviii) provision at the time of full development permit application of a full Landscape Plan. The Landscape Plan to illustrate the upper decks and terraces as well as the full ground plan. The ground level lane landscape to clearly illustrate all lane edge treatments;

Bicycle Parking

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

ENVIRONMENTAL SUSTAINABILITY

- (xx) 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;

Energy

- (xxi) provide energy efficient design and modeling results to meet or exceed the CBIP (Commercial Buildings Incentive Program) standard for energy efficiency.

- (xxii) 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 "xxi", 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; and
- 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.

- (xxiii) provide compatible, energy efficient design and details of the heating and domestic hot water for the referenced connection to the False Creek Neighbourhood Energy Utility proposed for the area;
- (xxiv) 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;
- (xxv) provide roughed-in capacity for future individual metering for energy and water supplies;
- (xxvi) provide climate zone control for residential and live-work units that is compatible with the False Creek Neighbourhood Energy Utility;

- (xxvii) 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

- (xxviii) provision of a green roof (including a useable, intensive roof and/or inaccessible, extensive roof) on principle building roofs;
- (xxix) 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);
- (xxx) provision of best current practices for managing water conservation including high efficiency irrigation, aspects of xeriscaping including drought-tolerant plant selection and mulching;
- (xxxi) design development to provide a balanced stormwater management system that maximizes on site water quality/quantity (e.g., greenroofs, on-site ponds, infiltration galleries, etc.) and potable water conservation through reuse for irrigation, water features, and toilet flushing (e.g. cistern with dual piping, water treatment). Detailed technical drawings of stormwater reuse system will be required at the time of development permit application;

Note to Applicant: Provide a stormwater retention system separated from the potable water system (dual system) for the irrigation of the ground level semiprivate 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 supplied with potable water unless clearly indicated otherwise. This system is to be designed in coordination with Building - Processing;

- (xxxii) provide details and arrangements for connection and flow rates to meet the SEFC Stormwater Management Plan (see engineering condition "xi");
- (xxxiii) 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

- (xxxiv) 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 or these features to be submitted at the time of application for Building Permit.

Urban Agriculture

- (xxxv) 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 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

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

Waste Management

- (xxxvii) 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

- (xxxviii) 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 G.

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 and the Director of Legal Services, in consultation with the Director of Planning, for:
- a. the provision, operation, and maintenance of co-operative vehicles and the provision and maintenance of parking spaces for use exclusively by such co-operative vehicles, with such parking spaces to be in addition to the minimum parking spaces required by the Parking bylaw and;
 - b. designation of visitor or surplus parking spaces which are publicly accessible for future use by co-operative vehicles, with such spaces not to be in addition to required parking for residents or visitors;

all as outlined in the table below:

Dwelling Units	Co-operative Vehicle	Co-operative Vehicle Parking Space	Future Converted Co-operative Parking Space
1-49	None	None	1
50-149	1	1	1
150-249	2	2	2
250-349	2	2	3
Each add'l 100 units	+0	+0	+1

- (ii) 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;
- (iii) improvements to the lane south of 1st Ave in keeping with the final SEFC public realm design requirements;
- (iv) site consolidation prior to the issuance of any development permits;
- (v) clarification of the following charges on title - Easement & Indemnity Agreements 497499M, 28603M, & 279550M; Indemnity Agreement 28462M prior-to issuance of any development permits for the lands, and release of such charges prior to issuance of any occupation permit for any new building;
- (vi) clarification of Covenant GD44853; and Right of Way GD44854 prior to issuance of any development permits for the lands, and release of such charges prior to any construction above grade pursuant to any development permit following rezoning enactment;
- (vii) dedication of the north 0.8 m of the site for road purposes;
- (viii) dedication for road purposes of a triangular portion of existing Lot 12 to line up with the new portion of Manitoba Street north of 1st Avenue. Note: the proposed dedication area at Manitoba Street as shown on the applicant's plans does not agree with that shown on the latest transportation geometric. Those portions of the building (both above and below grade) which are proposed within the dedication area shown on the attached sketch are to be removed;
- (ix) provision of a 1.5 m right of way along the south property line of the site adjacent to the residential uses along the lane for pedestrian purposes is required;
- (x) provision of a surface right of way for public, pedestrian access over the midblock pedestrian walkway between 1st Avenue and the lane, and for those portions of sidewalk along 1st Avenue located within the property lines;
- (xi) upgrading or extension of the storm sewer system to meet the SEFC stormwater management plan. (Note: the application does not currently contain enough detail to determine this, further clarification is required);

- (xii) 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;
- (xiii) 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;
- (xiv) building design is to include provision for connections to and be compatible with the False Creek Neighbourhood Energy Utility proposed for the area;

SOILS

- (xv) 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;
- (xvi) 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

- (xvii) 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;

- 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 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 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;
- i. the Owner acknowledges and agrees that vehicular and/or pedestrian access to the Lands from City streets may be restricted or unavailable for a period of time before, during and after the 2010 Olympic Winter Games;

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.

PUBLIC ART

- (xviii) 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 and the SEFC Public Art Plan, such agreement to provide for security in a form and amount satisfactory to the aforesaid officials; and

- (xix) Submit a preliminary public art plan to the satisfaction of the Managing Director, Cultural Services setting out the proposed public art program aims, artist terms of reference, site and artist selection methods, project budget, implementation plan and a schedule consistent with the objectives and intent of the SEFC Public Art Plan;

CULTURAL AMENITY SPACE

- (xx) execution of a Section 219 Covenant providing for the design and construction by the property owner of the shell space for a cultural amenity space in the development as detailed in Appendix H and as included as part of the approved form of development, including a minimum area of 4 081.79 m² to be designed to the satisfaction of the Development Permit Board and the Managing Director, Cultural Services and to be constructed to the satisfaction of the Director of Facilities Design and Development;
- (xxi) an option to purchase in favour of the City for an air space parcel (which air space parcel will be created by the registered owner at its cost) for the cultural amenity space for a nominal purchase price;
- (xxii) a statutory right of way in favour of the City to allow the City access to the site during construction to monitor construction of the cultural amenity space;

COMMUNITY AMENITY CONTRIBUTION

- (xxiii) execution of Section 219 Covenant providing that prior to issuance of the development permit the agreed Community Amenity Contribution in the amount of \$3,812,220, is to be paid to the City, such Covenant to be on terms and conditions satisfactory to the Director of Legal Services;

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.

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 consequential amendment to the Sign By-law to establish regulations for this CD-1 in accordance with Schedule E (assigned Schedule "B" (DD)) as set out in Appendix C of the Policy Report "CD-1 Rezoning and Cultural Amenity Bonus: 102 - 160 West 1st Avenue (Playhouse Theatre Company Site)" dated July 12, 2006, be approved;
- C. THAT the Noise Control By-law be amended to include this CD-1 in Schedule B as set out in Appendix C of the Policy Report "CD-1 Rezoning and Cultural Amenity Bonus: 102 - 160 West 1st Avenue (Playhouse Theatre Company Site)" dated July 12, 2006.

CARRIED UNANIMOUSLY

RISE FROM COMMITTEE OF THE WHOLE

MOVED by Councillor Lee

THAT the Committee of the Whole rise and report.

CARRIED UNANIMOUSLY

ADOPT REPORT OF COMMITTEE OF THE WHOLE

MOVED by Councillor Cadman

SECONDED by Councillor Capri

THAT the report of the Committee of the Whole be adopted, and the Director of Legal Services be instructed to prepare and bring forward the necessary by-law amendments.

CARRIED UNANIMOUSLY

The Special Council adjourned at 8:20 p.m.

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