

SUMMARY AND RECOMMENDATION

4 REZONING: 1412-1424 East 41st Avenue

Summary: To rezone 1412 East 41st Avenue from C-1 (Commercial) District and 1424 East 41st Avenue from RS-1 (One-Family Dwelling) District, both to a CD-1 (Comprehensive Development) District. The proposal is for a four-storey commercial and residential building, with all 42 dwelling units secured as for-profit affordable rental housing. A height of 14.35 m (47.1 ft.) and a floor space ratio (FSR) of 2.42 are proposed. This is a concurrent rezoning and development permit (DE413542) application.

Applicant: Matthew Cheng Architect Inc.

Referral: This item was referred to Public Hearing at the Regular Council Meeting of January 21, 2014.

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

- A. THAT the application, by Matthew Cheng Architect Inc. on behalf of Christa Vina Investment Ltd., to rezone 1412 East 41st Avenue [PID 024-729-604; Parcel 1 Block 1 DL 715 Group 1 NWD Plan LMP45258] from C-1 (Commercial) District and 1424 East 41st Avenue [PID 003-168-590; Lot D Block 1 DL 715 Plan 8370] from RS-1 (One-Family Dwelling) District, both to a CD-1 (Comprehensive Development) District to increase the floor space ratio from 1.20 in C-1 and from 0.70 in RS-1 to an overall floor space ratio of 2.42 FSR and height from 9.2 m (30.1 ft.) to 14.35 m (47.1 ft.) to permit the development of a four-storey mixed-use commercial and residential building, with all 42 dwelling units secured as for-profit affordable rental housing, generally as presented in Appendix A of the Policy Report dated January 14, 2014, entitled "CD-1 Rezoning: 1412-1424 East 41st Avenue", 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 Matthew Cheng Architect Inc. and stamped "Received City Planning Department, July 17, 2013", subject to the following conditions, provided that the General Manager of Planning and Development Services 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 General Manager of Planning and Development Services, who shall have particular regard to the following:

Design Development

1. Provision of high quality, durable materials and refined details.

Note to Applicant: The extent of brick in this revised application is recognized as assisting in the above condition. Consideration should be given to increasing its extent.

2. Provision of more planting along the laneway to green the rear elevation.

Note to Applicant: Intent is to reduce the visual scale of the new building relative to the neighbours across the lane by reducing exposed concrete. This can be accomplished by lowering the upper deck planter to be closer to the lane where higher ceilings are not required for loading.

3. Design development to mitigate direct overlook from upper floors to nearby residential neighbours.

Note to Applicant: This can be accomplished with the use of translucent glazing to a 36 inch height at the balcony guard rail and windows, or similar measures.

4. Provision of enlarged drawings showing lighting design that avoids glare to neighbouring properties.

Note to Applicant: Full cut-off fixtures and down lights should be specified.

Crime Prevention Through Environmental Design (CPTED)

5. Design development to consider the principles of CPTED, having particular regard for security in the underground parking:

Note to Applicant: Consider how lighting and glazing can be used to improve perceived safety in underground areas. Accessible exterior walls should be noted as having anti-vandal coating. Design features that address CPTED principles should be noted on the development permit application.

Landscape Design

6. Provision of large scale (1/4" = 1'-0") sections illustrating the soil depths for all planters, including the east side yard, the second floor deck planter, and the lane edge planter.

Note to Applicant: The sections should include the adjacent building structure.

7. Provision of a report from an arborist certified by the International Society of Arboriculture (ISA) regarding the safe retention of the neighbour's four cedar trees.

8. Clarification of the width of the lane edge planter and the size and location of the 4th floor planters.

Note to Applicant: The architectural plan [Drawing No. A4] shows a 2.0 ft. wide lane edge planter and the Landscape Plan [Drawing No. L1] shows a 4.0 ft. wide planter. The planter width should match the required building setback at the rear property line.

Sustainability

9. Identification on the plans and elevations of the built elements contributing to the building's sustainability performance in achieving LEED® Silver, including a minimum of 36 points in the LEED® rating system, three optimize energy performance points, one water efficiency point and one storm water point.

Note to Applicant: Provide a LEED® checklist confirming the above and a detailed written description of how the above-noted points have been achieved with reference to specific building features in the development, and notation of the features on the plans and elevations. The checklist and description should be incorporated into the drawing set.

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, the General Manager of Planning and Development Services, the General Manager of Engineering Services, the Managing Director of Social Development and the Approving Officer, as necessary, and at the sole cost and expense of the owner/developer, make arrangements for the following:

Engineering

1. Dedication of the north 0.61 m of the site for road. Deletion of all building encroachments shown to extend over the dedication line.
2. Dedication of the west 0.61 m of the site for road. Deletion of all building encroachments shown to extend over the dedication.
3. Consolidation of Parcel 1 and Lot D into a single site.
4. Discharge of parking covenant (BP37729). Arrangements are to be made prior to by-law enactment with discharge completed by building occupancy. A letter of commitment will satisfy this condition prior to enactment.
5. Provision of a Services Agreement to detail the on-site 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.

- a. 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.
- b. Relocation of the wood utility pole located at the west side of the loading space and in front of the commercial garbage room to the satisfaction of the General Manager of Engineering Services. Provide a letter of confirmation from BC Hydro and any other utility using this pole agreeing to the relocation.

Note to Applicant: the current location will affect the provision of a double loading bay throat, access into the loading space and access to the garbage storage area.

- c. Provision of improved sidewalks adjacent the site to meet the current commercial sidewalk standards.
 - d. Provision of street trees adjacent the site where space permits.
 - e. Provision of a standard concrete lane crossing on the east side of Knight St. at the lane south of 41st Avenue.
6. 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.

Housing

7. Make arrangements to the satisfaction of the Managing Director of Social Development and the Director of Legal Services, to secure all residential units as for-profit affordable rental housing units pursuant to the City's Short Term Incentives for Rental Housing (STIR) Program for 60 years or life of the building, whichever is greater, subject to a no separate-sales covenant and a non-stratification covenant, and subject to all such units being made available as rental housing for a term of not less than one month at a time, and on such other terms and conditions as the Managing

Director of Social Development and the Director of Legal Services may require for such residential units to comply with the requirements of the STIR Program and in particular section 3.1A of the applicable Development Cost Levy By-Law.

The Housing Agreement to secure the rental units will include:

- a. A rent roll indicating the initial monthly rents for each rental unit;
- b. A covenant from the owner to submit, prior to issuance of an occupancy permit, a finalized rent roll to the satisfaction of the Managing Director of Social Development and Director of Legal Services that reflect the rental rates in the Housing Agreement on either a per unit or a per square foot basis in order to address potential changes in unit mix and/or sizes between the rezoning and development permit stage; and
- c. Such other terms and conditions as the Director of Legal Services may require

Note to Applicant: this condition will be secured by a Housing Agreement to be entered into by the City by by-law enacted pursuant to section 565.2 of the Vancouver Charter.

Soils

8. If applicable:
 - a. Submit a site profile to the Environmental Planning, Real Estate and Facilities Management (Environmental Contamination Team);
 - b. As required by the Manager of Environmental Planning 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
 - c. If required by the Manager of Environmental Planning 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 Protection, 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 a Certificate of Compliance satisfactory to the City for the on-site and off-site contamination, issued by the Ministry of Environment, has 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 site as are 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, and letters of credit, and provide for the withholding of permits, as deemed appropriate by, and in the form and content satisfactory to, the Director of Legal Services.

- B. THAT, if after public hearing Council approves in principle this rezoning and the Housing Agreement described in section (c) of Appendix B of the Policy Report dated January 14, 2014, entitled "CD-1 Rezoning: 1412-1424 East 41st Avenue", the Director of Legal Services be instructed to prepare the necessary Housing Agreement By-law for enactment prior to enactment of the CD-1 By-law contemplated by the same report.
- 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 Subdivision By-law, generally as set out in Appendix C of the Policy Report dated January 14, 2014, entitled "CD-1 Rezoning: 1412-1424 East 41st Avenue".
- D. 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 [assigning Schedule "B" (C-1)], generally as set out in Appendix C of the Policy Report dated January 14, 2014, entitled "CD-1 Rezoning: 1412-1424 East 41st Avenue", be approved.
- E. 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 January 14, 2014, entitled "CD-1 Rezoning: 1412-1424 East 41st Avenue"
- F. THAT Recommendations A through E 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 and 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 - 1412-1424 East 41st Avenue)