



COUNCIL REPORT

Report Date: October 24, 2023
Contact: Dan Garrison
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RTS No.: 15983
VanRIMS No.: 08-2000-20
Meeting Date: November 1, 2023
[Submit comments to Council](#)

TO: Standing Committee on Policy and Strategic Priorities

FROM: General Manager, Planning, Development and Sustainability

SUBJECT: Removal of Certain Occupancy Permit Holds in respect of Construction of Social Housing for the Little Mountain Development (formerly 155 East 37th avenue and with the current addresses and legal descriptions set out in Appendix C)

Recommendations

THAT Council approves the amendments to the Rezoning By-law Enactment Condition 18, as set out in Appendix A, and instructs the Director of Legal Services to make the appropriate modifications to or replacements of legal agreements, legal covenants and securities, including the Housing Agreement to give effect to this modification, as may be required at the discretion of the Director of Legal Services.

Report Summary

This report evaluates the request by Holborn Properties Ltd. ("**Holborn**") to remove the City's Occupancy Permit holds (the "**OP Holds**") in the Housing Agreement registered on title to Lots 1, 6, and 7 (the "Phases 1 and 2 Market Lots") being those lots within the whole Little Mountain development lands, as described in Appendix C (the "Development Lands") on which market residential buildings will be constructed in Phase 1 and Phase 2 of the Development. The Little Mountain development proposes approximately 1,573 dwelling units including 282 social housing units (the "**Social Housing Units**"), a childcare centre, a neighbourhood house and a public plaza and a park (collectively, the "Development").

Staff are seeking Council's direction to modify the Rezoning By-law Enactment Condition 18 (as set out in Appendix A) relating to the Housing Agreement to allow for the release of certain OP Holds on the Phases 1 and 2 Market Lots with respect to the completion of the Social Housing Units on Lot 2, Lot 5 and Lot 8 (see Figure 1) (the "BC Housing Lots") and to amend or replace any associated legal agreements, covenants as required by these changes.

Holborn has indicated that they are unable to obtain financing for the Development with the current OP Holds in the Housing Agreement registered over the Phases 1 and 2 Market Lots. Accordingly, Holborn is requesting that the City remove the OP Holds in the Housing Agreement

over the Phases 1 and 2 Market Lots. BC Housing has confirmed its support for Holborn's request.

Staff are seeking to modify the OP Holds only with respect to the completion of the Social Housing Units on the BC Housing Lots and for clarity, the foregoing will not affect the OP Hold over Phases 1 and 2 Market Lots with respect to the completion of the Social Housing Units on the City owned Lot 4 (the "City Lot") or the occupancy permit hold in the Lot 4 Development Agreement (defined herein) securing the construction by Holborn of Building AB and a public plaza on the City Lot.

Council Authority/Previous Decisions

- Little Mountain Policy Planning Program (2009)
- Little Mountain Policy Statement (2012)
- Council's approval in principle of the Rezoning application (2016)
- Memorandum of Understanding (2021)

City Manager's Comments

The City Manager concurs with the foregoing recommendations.

Background

Holborn purchased the Development Lands from the Provincial Rental Housing Corporation (PRHC) under a Purchase and Sale Agreement (PSA) in 2008. A requirement of this site acquisition was the obligation to replace 234 social housing units on the site.

Between 2007 and 2012, the City completed the Little Mountain Policy Statement. At that time, BC Housing relocated all the existing tenants and proceeded to demolish all the buildings on site as well as remediate the site to prepare for redevelopment.

Following a Public Hearing on July 19, 2016, Council approved in principle a rezoning application for the Development Lands, from RM-3A (Multi-Family Dwelling) District to CD-1 (Comprehensive Development) District to increase the permitted floor space ratio from 1.45 to 2.5 and the height from 10.7 m to 36.5 m to permit a mixed use development (the "**Rezoning**"). At the time of rezoning, the social housing requirement was increased to 282 units to address Council's affordable housing policies for Sustainable Large Developments.

As a condition of the rezoning by-law enactment, the provision of the Social Housing Units was secured by a Housing Agreement registered at the Land Title Office under numbers CA6929927 to CA6929935 (the "**Housing Agreement**").

Following the satisfaction of the rezoning by-law enactment conditions, Council enacted By-law 12195 on July 24, 2018 to rezone the Development Lands to CD-1 (704) (as amended by By-law 12240) (collectively, the "**Rezoning By-law**").

The Development is divided into four phases, with the delivery of all Social Housing Units to be completed in Phases 1 and 2 (Figure 1 below). The Housing Agreement includes holds on the following:

- a) the issuance of any Occupancy Permit for any market residential building in the Development, until the Occupancy Permits are issued for all of the Social Housing Units in Phase 1, being the Social Housing Units that are located in Building AC on Lot 2 and in Building AB on Lot 4 (the City Lot); and
- b) the issuance of any Occupancy Permit for any market residential building in Phases 2, 3 and 4 (i.e. the buildings on Lots 6, 7, 9, 10 and 12) and any development permits on any lots in Phase 3 and Phase 4 (i.e. Lots 9, 10 and 12) (the “DP Holds”) until the Occupancy Permits are issued for all of the Social Housing Units in Phase 2, being those that are located in Building BA on Lot 5 and Building EA on Lot 8.

The City and Holborn have also entered into a separate Development Agreement (the “**Lot 4 Development Agreement**”) for Holborn to construct Building AB and a public plaza on the City Lot, which will be comprised of 48 Social Housing Units, a Neighbourhood House and a Childcare Facility. There is a separate hold over the issuance of Occupancy Permits on any lot on which a market building will be constructed (i.e. Lots 1, 6, 7, 9, 10 and 12) until this building and public plaza are completed. The Occupancy Permit hold in the Development Agreement or the OP Holds in the Housing Agreement with respect to the completion of the Social Housing Units on the City Lot will not be affected by the proposed amendment to Rezoning By-law Enactment Condition 18.

Figure 1: Context Map



REPORT

Strategic Analysis

Current Status

Holborn delivered the first social housing building (Building BB) to BC Housing ahead of rezoning approval. Holborn is currently constructing the second social housing building (Building AC) for BC Housing, which is expected to complete in 2023. Holborn is targeting the groundbreaking for the City-owned social housing building (Building AB) before the end of the year. This building includes the Neighbourhood House, the childcare centre and the plaza and park. Social housing buildings EA and BA for BC Housing are targeted by Holborn to break ground by spring 2024.

Holborn have indicated that they would like to launch the pre-sales for their market building ED by the end of the year and intend to submit DP applications for the market buildings BC and AA/EC at the same time. However, these dates have been delayed due to difficulties obtaining financing for the project as a result of the OP Holds placed on the Phase 1 and 2 Market Lots. Figure 2 illustrates the current status of the social and market buildings in Phase 1 and Phase 2:

Figure 2.

Social Housing						
Phase	Lot	Building	Units	DP Status	BP Status	Notes
1	2	AC	62	Issued	Issued	Under construction - OC Q3 2023
1	3	BB	53	Issued	Issued	Built and occupied
1	4*	AB	48	Issued	Stage 1 under review	City building, construction start Q3 2023
2	5	BA	49	PTR 1 Reviewed	Stage 1 under review	Construction start Q3 2023
2	8	EA	70	PTR 2 Reviewed	Stage 1 under review	Construction start Q1 2024
			282			
Market Housing						
Phase	Lot	Building	Units	DP Status	BP Status	Notes
1	1	BC	TBD	N/A	N/A	Pre-app submitted
2	6	EC/AA	TBD	N/A	N/A	Pre-app submitted
2	7	EB	87	PTR #4 Review	Stage 1 under review	Construction start Q2 2024

*City-owned building containing Little Mountain Neighbourhood House, Social Housing, Childcare, Public Plaza

* Housing agreement calls for delivery of this building before OC hold can be removed on market parcel 1

Request to Remove Occupancy Permit Holds in the Housing Agreement over the Phases 1 and 2 Market Lots to Facilitate Holborn Obtaining Financing

Holborn has indicated that they are unable to obtain financing for the Development with the current OP Holds in the Housing Agreement registered over the Phases 1 and 2 Market Lots. Accordingly, Holborn is requesting that the City remove all such OP Holds in the Housing Agreement over the Phases 1 and 2 Market Lots.

For clarity, this request does not affect the OP Holds and DP Holds over the lots on which market residential buildings will be constructed in Phase 3 and Phase 4 or the Occupancy

Permit holds over the market residential lots in the Development contained in the Lot 4 Development Agreement, securing the construction by Holborn of Building AB on the City Lot. Staff have reviewed this request and have sought input and direction from BC Housing to confirm their support. BC Housing has verified that the purchase and sale agreement between Holborn and PRHC provides adequate security for delivery of the Social Housing Units on the sites that are intended to be transferred by Holborn to BC Housing after completion, i.e. Lots 2, 5 and 8. BC Housing has confirmed that they are supportive of Holborn's request to remove the City's OP Holds in the Housing Agreement that are currently registered on the Phases 1 and 2 Market Lots, i.e. Lots 1, 6 and 7. Please see Appendix B for correspondence from BC Housing. For clarity, the foregoing confirmation by BC Housing is not in respect of any occupancy holds in the Lot 4 Development Agreement.

Based on the request from Holborn and confirmation from BC Housing, City staff recommend that Council agree to remove the Occupancy Permit holds in the Housing Agreement over the Phases 1 and 2 Market Lots only with respect to the completion of the Social Housing Units on the BC Housing Lots. Staff recommend this approach for the following reasons:

- Holborn and BC Housing have confirmed that Holborn cannot obtain the necessary financing to proceed with construction of the market residential units or the Social Housing Units, as contemplated by the Rezoning with these holds in place. Not agreeing to release the holds will likely result in further delays to the Development.
- BC Housing has confirmed that they have adequate legal requirements in place to ensure delivery of the replacement Social Housing Units in Lots 2, 5 and 8, even without the City's OP Holds in the Housing Agreement over the Phases 1 and 2 Market Lots.
- Holborn has delivered the first social housing building (Building BB) to BC Housing; the second social housing building (Building AC) is under construction; the ground breaking for the social housing city owned building (Building AB) is targeted by Holborn to be before the end of the year; Holborn is also targeting the remaining social housing buildings EA and BA to break ground by spring 2024.

Staff are not recommending any amendments to the OP Holds with respect to the completion of the Social Housing Units on the City Lot or the conditions and the Development Agreement related to the delivery of Building AB and the public plaza to be constructed on the City Lot. The OP Hold in the Housing Agreement with respect to the completion of the Social Housing Units on the City Lot and the Occupancy Permit holds in the Development Agreement securing delivery of Building AB and the public plaza to the City's satisfaction are still needed as these holds are the only security in place for the delivery of these public benefits.

Staff are further not recommending any amendments to the Occupancy Permit or Development Permit holds in the Housing Agreement on market sites in Phases 3 and 4 of the Development (i.e. Lots 9, 10 and 12). While staff support removal of OP Holds with respect to the completion of the Social Housing Units on the BC Housing Lots in the Housing Agreement over the market residential lands in Phase 1 and 2 (i.e. Lots 1, 6 and 7) to facilitate Holborn's ability to obtain financing and enable the Development to proceed, staff do not support the issuance of DPs on subsequent phases of development prior to completion of the Social Housing in Phase 1 and 2.

Legal Implications

Releasing the Occupancy Permit holds in the Housing Agreement on the Phases 1 and 2 Market Lots with respect to the completion of the Social Housing Units on the BC Housing Lots reduces the City's ability to ensure that these Social Housing Units are constructed and occupied ahead of the market residential units in the Development.

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Appendix A Rezoning Enactment Conditions

Social Housing

18. Make arrangements to the satisfaction of the General Manager of Community Services, the General Manager of Planning and Development Services, the General Manager of Engineering Services, the General Manager of Real Estate and Facilities Management, the Director of Real Estate Services and the Director of Legal Services for the owner to:
- (i) design, construct, equip and convey to the Province of British Columbia a minimum of 234 dwelling units, to be secured as social housing, together with the subdivided parcels of land on which those dwelling units are located, in the first two phases of the Little Mountain redevelopment;

Existing Rezoning Enactment Condition	New Replacement Rezoning Enactment Condition
<p>(ii) complete a minimum of 58 social housing units (beyond the existing 53 replacement units completed and occupied in 2015) prior to occupancy of any market unit in phase 1, except that number may be increased by the General Manager of Community Services in consultation with General Manager of Planning and Development Services, based on the summary of tenant's expressions of interest to return and a summary of their housing needs;</p> <p>(iii) complete the balance of such social housing units prior to the earlier of (i) occupancy of any market unit in phase 2; and (ii) issuance of any development permit for any building in phase 3 or 4;</p>	<p>(ii) complete:</p> <ul style="list-style-type: none"> (a) a minimum of 48 social housing units (beyond the existing 53 replacement units completed and occupied in 2015) in Building AB on Lot 4, Plan EPP82101 prior to occupancy of any market unit in phase 1, phase 2, phase 3 or phase 4; and (b) the balance of such social housing units prior to the occupancy of any market unit in phase 3 or phase 4 and the issuance of any development permit for any building in phase 3 or phase 4; <p>(iii) the foregoing condition (ii) is separate from and in addition to any other permit holds that may be required in other rezoning enactment conditions herein;</p>

- (iv) enter into one or more housing agreements pursuant to Section 565.2 of the Vancouver Charter in respect of all such social housing units, in each case:
 - a. for the longer of 60 years or the life of the building, in which such units are located;
 - b. requiring all such units to be used only for social housing;
 - c. requiring that no less than 184 of the units will be suitable for families as per the City's Guidelines for High Density Housing for Families with Children;
 - d. requiring that no less than five percent of the total number of the Social Housing units be suitable as disabled housing as defined by the City's Social Housing Design and Technical Guidelines;
 - e. containing no-separate-sales and no-stratification covenants;
 - f. requiring all such units to be made available for rental for a term of not less than one month at a time;
 - g. providing a first-right-of-refusal for former tenants to relocate into a replacement rental unit on the site at rents comparable to what they formerly paid (adjusted for CPI and subject to normal income testing);
 - h. requiring that replacement social housing units beyond those allocated to returning residents must be rented at rates no greater than rents affordable to households with incomes below the Housing Income Limits as published by CMHC for metro Vancouver; and
 - i. including such other terms and condition as the Director of Legal Services and the Chief Housing Officer or successor in function may require.

**Appendix B
Letter from BC Housing**



October 17, 2023

City Manager
City of Vancouver
515 West 10th Avenue
Vancouver, BC V5Z 4A8

Attention: Mr. Paul Mochrie, City Manager

Dear Mr. Mochrie,

Re: Little Mountain Project

We are writing regarding the Little Mountain Project that the Provincial Rental Housing Corporation (“PRHC”) and Holborn Properties Ltd. (“Holborn”) have been working in partnership to complete the 234 replacement social housing units on the Little Mountain Project site as part of the Purchase and Sale Agreement between the parties. As of the date of writing of this letter, PRHC has title to the 53-unit, BB Building and construction is underway for the second social housing building AC building for PRHC. In addition, the remaining social housing parcels for EA and BA buildings for PRHC are anticipated to break ground by spring 2024. We understand that the City of Vancouver (“City”) through the rezoning approval of the Little Mountain Project has certain requirements and obligations for Holborn to deliver as part of the rezoning that include amongst other things, Occupancy Permit holds on various Phases of the Little Mountain Project site.

We further understand that Holborn has submitted a request to the City of Vancouver in a letter dated September 12, 2023, for the City to remove all permit holds on Little Mountain Project site by discharging the City social housing covenant. As a partner on the Little Mountain Project, BC Housing and PRHC have been asked to provide our response on Holborn’s request to the City to be included in a Council report.

BC Housing and PRHC support Holborn’s request to the City based on the following:

- 1) We confirm support for Holborn’s request for the City to remove all permit holds on the Little Mountain Project to allow Holborn to obtain and access financing from Holborn’s

market lenders for site servicing, City's letter of credit as well as other items to allow the Little Mountain project to proceed.

- 2) We confirm that PRHC and BC Housing have existing legal agreements including registered charges on title that provide security for the remaining social housing units and buildings. These include the Purchase and Sale Agreement, the S219 restrictive covenant, and separate PRHC and BC Housing mortgages. All these agreements and charges on title work in conjunction to ensure that Holborn complete their obligation to deliver a total of 234 units (53 units delivered already through BB Building now owned by PRHC) of social housing to PRHC. These agreements and charges provide the legal and title security for PRHC and BC Housing that Holborn will be required to deliver the social housing units and buildings as well as other obligations for Holborn to deliver to PRHC as outlined in the Purchase and Sale Agreement.
- 3) We confirm that should Holborn default on their obligations to deliver on the remaining social housing units or any other obligations of Holborn under the Purchase and Sale Agreement, that through the legal and title charges, PRHC and BC Housing may act through these legal processes and rights necessary to foreclose and/or take over the site and lands; or require any other party that takes over the site through the S219 covenant to complete and ensure the delivery of the remaining Non-Market housing obligations.

In summary, PRHC and BC Housing support Holborn's request to the City on the above basis for the removal of Occupancy Permit holds on various Phases of the Little Mountain Project site. We are confident that with the existing legal and registered charges on title by PRHC and BC Housing that there is adequate and sufficient security and legal agreements in place to ensure that Holborn delivers on the Non-Market Housing obligations for the Little Mountain Project site.

We trust that our summary of the partnership, legal agreements, and registered charges and covenant as well as the security and legal rights of PRHC and BC Housing with Holborn on the Little Mountain Project will provide the City with the needed assurances that the social housing obligations will be met regardless of the holds currently in place by the City as part of the rezoning approvals.

We hope that the City will consider Holborn's re(thequest to remove the Occupancy Permit holds on the various Phases of the Little Mountain Site and look forward to a positive response.

Should you require any additional information or have any further questions, please feel free to reach out to us.

Sincerely,

Michael Pistrin, Vice President, Development and Asset Strategies
BC Housing Management and Commission
Provincial Rental Housing Corporation

Appendix C

Civic Addresses and Legal Descriptions of the Development Lands

PID	Legal	Civic
039-509-807	Lot 1 District Lot 638 Group 1 New Westminster District Plan EPP82101	5299 Main Street
030-509-874	Lot 2 District Lots 637 and 638 Group 1 New Westminster District Plan EPP82101	5155 Main Street
030-509-815	Lot 3 District Lot 638 Group 1 New Westminster District Plan EPP82101	155 East 37 th Avenue
030-509-882	Lot 4 District Lots 637 and 638 Group 1 New Westminster District Plan EPP82101	167 East 36 th Avenue
030-509-823	Lot 5 District Lot 638 Group 1 New Westminster District Plan EPP82101	122 East 36 th Avenue
030-509-891	Lot 6 District Lots 637 and 638 Group 1 New Westminster District Plan EPP82101	5198 James Street
030-509-912	Lot 7 District Lot 637 Group 1 New Westminster District Plan EPP82101	5060 James Street
030-509-921	Lot 8 District Lot 637 Group 1 New Westminster District Plan EPP82101	4930 James Street
030-509-831	Lot 9 District Lot 638 Group 1 New Westminster District Plan EPP82101	99 East 37 th Avenue
030-509-904	Lot 10 District Lots 637 and 638 Group 1 New Westminster District Plan EPP82101	5150 Ontario Street

PID	Legal	Civic
030-509-939	Lot 11 District Lots 637 and 638 Group 1 New Westminster District Plan EPP82101	5102 Ontario Street
030-509-947	Lot 12 District Lot 637 Group 1 New Westminster District Plan EPP82101	8 East 33 rd Avenue