



REPORT

Report Date: July 18, 2024
Contact: Jason Olinek
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RTS No.: 16490
VanRIMS No.: 08-2000-20
Meeting Date: September 24, 2024

TO: Vancouver City Council

FROM: General Manager of Planning, Urban Design and Sustainability in
consultation with the Director of Legal Services

SUBJECT: Heritage Revitalization Agreement Modification – 1230 Matthews Avenue

RECOMMENDATION

- A. THAT Council instruct the Director of Legal Services to bring forward for enactment, pursuant to Section 592 of the *Vancouver Charter*, a by-law to amend By-law Number 8074 to allow modification of the Heritage Revitalization Agreement (the “HRA”) regarding 1230 Matthews Avenue / 3611 Selkirk Street [PID: 024-567-574, Lot E Block 60 District Lot 526 Group 1 New Westminster District Plan LMP42938 (the “site”)], the approval of which enabled construction of a new building on the site (the “New House”) under Development Permit DE403237 (the “original DP”), which building was not constructed at the time. The modifications would update the zoning references in the HRA to reflect current zoning in order to allow for the construction of the New House under the current development permit application, DP-2023-00570 (the “DP Application”).
- B. THAT an agreement to modify the HRA shall be prepared, completed, registered, and given priority on title to the lands described above, to the satisfaction of the Director of Legal Services and the Director of Planning.
- C. THAT Recommendations A and B be adopted on the following conditions:
 - i. THAT the passage of the above resolution 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 in relation thereto is at the risk of the person making the expenditure or incurring the cost; and
 - ii. THAT the City and all its officials shall not in any way be limited or restricted in the exercise of their authority or discretion, regardless of when they are called upon to exercise such authority or discretion.

REPORT SUMMARY

The purpose of this report is to bring forward administrative modifications to an older Heritage Revitalization Agreement (HRA) to permit the issuance of Development Permit Application (**DP-2023-00570**) to construct a new house. This is required to comply with more recent updates to the Zoning and Development By-Law including the *First Shaughnessy District Schedule* prior to issuance of the active DP Application. Consideration of form of development is not required by this report.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

Heritage Revitalization Agreement (1999):

On September 21, 1999 ([RTS 961](#)), Council approved a Heritage Designation By-law and an HRA for the Lando House (the “heritage building”), which is listed on the *Vancouver Heritage Register* (VHR) in the ‘B’ evaluation category. The HRA required the rehabilitation and restoration of the heritage building and a brick outbuilding referred to as the “gazebo”. The HRA also enabled the following (see Appendix B and Appendix C):

- The relocation of the heritage building on the site to front onto Selkirk Street (formerly addressed as 1234 Matthews Avenue) and its conversion into a two unit multiple conversion dwelling;
- the relocation of the “gazebo”; and
- construction of a new 11,000 square foot building (the “New House”) on the balance of the site.

Since the approval of the HRA and the original DP in 1999, the zoning for the neighbourhood was changed by Council in April 2023 from the *First Shaughnessy District Official Development Plan (FSDODP)* to the *First Shaughnessy District Schedule (FSD District Schedule)*. The site is also currently subject to the *Historic Conservation Area Official Development Plan (HCAODP)* approved by Council in 2015.

Vancouver Charter:

Pursuant to Section 592(4) of the *Vancouver Charter*, an HRA may be modified by Council by by-law and with the consent of the owner (see Legal).

Additional Applicable Council policies:

- *Heritage Policies (2020)*
- *Vancouver Heritage Program (2020)*
- *Historic Conservation Area Official Development Plan (2015)*
- *First Shaughnessy District Schedule and Heritage Conservation Area Official Development Plan (2015, Amended 2024)*
- *First Shaughnessy Heritage Conservation Area Design Guidelines (2015, amended 2016)*

CITY MANAGER’S COMMENTS

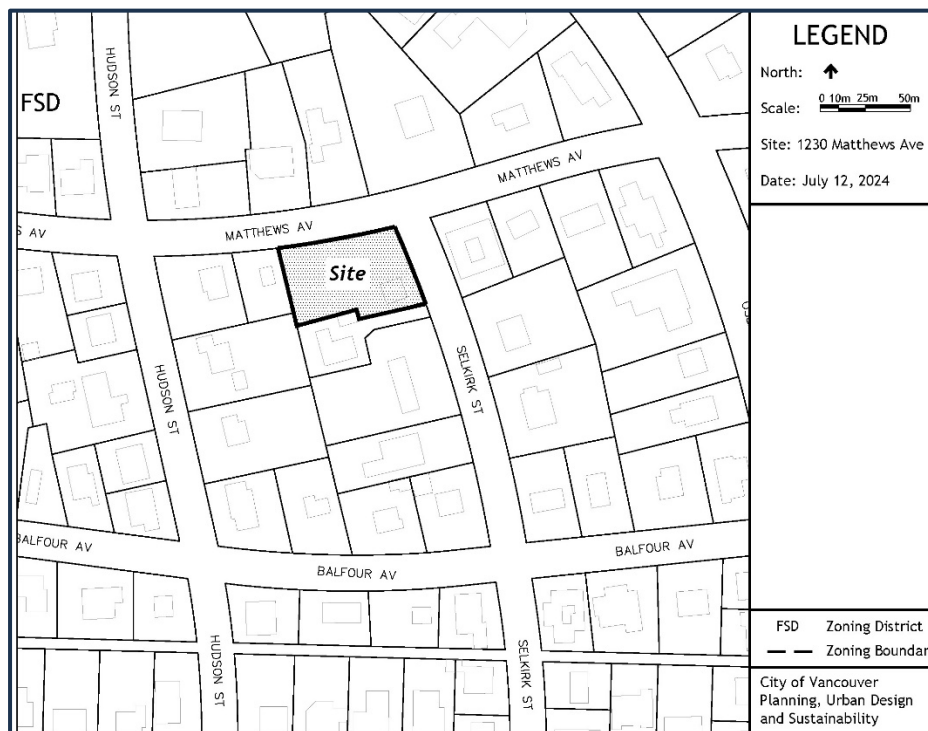
The City Manager recommends approval of the forgoing.

REPORT

Site and Context

The site is located in the First Shaughnessy neighbourhood at the intersection of Matthews Avenue and Selkirk Street. The surrounding development is composed of large estate properties with residential buildings with some institutional and office uses. The area is subject to the *HCAODP* which requires retention and protection of heritage resources, sites, and pre-1940s buildings.

Figure 1: Site Location



Background

The owner now wishes to build the New House as authorized by the HRA (See Council Authority/ Previous Decisions). Staff determined the HRA needs to be modified to reflect the zoning change in order for the DP Application for the New House to be issued.

Development Permit Application

On July 19, 2023, the DP Application was submitted to construct the New House and to request modifications to the HRA as required for the issuance of the Development Permit. The current proposal for the New House is consistent with the originally approved Development Permit in 1999. An explanatory technical summary and comparison are provided in Appendix E.

The design and floor plans of the New House have been changed from the original. However, staff have evaluated this to be overall consistent with Council's previous approvals, the HRA, the *First Shaughnessy Heritage Conservation Area Design Guidelines (FSHCA Design Guidelines)*, and with the *FSD District Schedule*.

Neighbourhood Notification – Notification was conducted via the Shape Your City portal and seven responses were received. Two responses were in opposition and five in support. Opposition was related to the size and design of the building. Support was generally expressed for the design of the project and consistency with the zoning. Staff have reviewed the comments and concluded that the New House proposal is consistent with the *FSD District Schedule*, the *HCAODP*, the *FSHCS Design Guidelines* and the original DP, and therefore can be supported as currently proposed.

Advisory Committees

The proposed New House and modification to the HRA do not affect the protected heritage features of the site. Therefore a review by the Vancouver Heritage Commission was not conducted. The First Shaughnessy Design Panel reviewed the DP Application on December 7, 2023, and supported it (refer to [FSADP Minutes](#)).

Legal

Pursuant to Section 592(8) of the Vancouver Charter, a public hearing is required to approve or modify an HRA if there is a change in use or density not otherwise authorized by the applicable zoning. In this case, the modification is not for a change of use or density and therefore a public hearing is not required (see also Council Authority/ Previous Decisions).

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1230 Matthews Avenue
PHOTOGRAPHS AND DIAGRAMMS



Lando House (Current Photo) Facing Selkirk Street (Relocated)



Lando House (1990s) Facing Matthews Ave (Original Location)

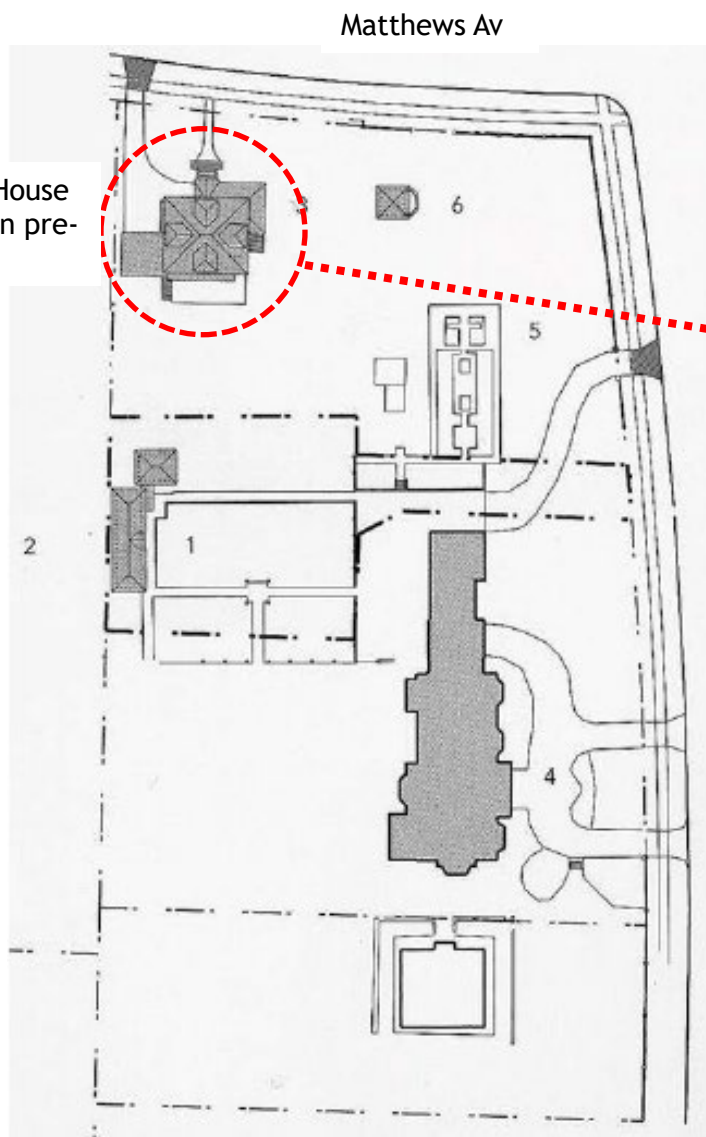


Figure 25: Site Plan before moving the Lando House (3), garden gazebo (6), the Umbrella-Pine trees (5), and the Rosemary (4).

(Drawing by Enriquez and Partners in Selected Work 1964-2005)

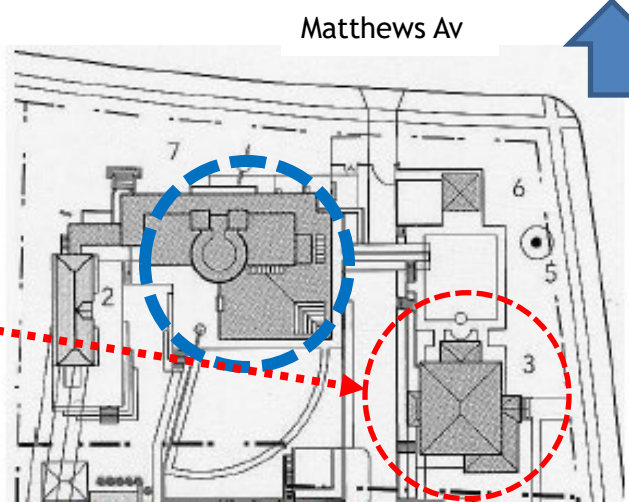


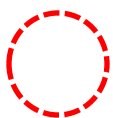
Figure 26: Proposed site plan for 1230 Matthews Ave by Enriquez



Figure 27: Gordon B. Shrum and Richard Enriquez in front of the garden gazebo

(In Richard Enriquez Selected Work 1964-2005)

Diagram Showing Pre-1999 Site (Left) and the Original DP Proposal (Top Right)



Lando House



New House Location
(Original DP Proposal)

**1230 Matthews Avenue
MODIFICATION OF HERITAGE REVITALIZATION AGREEMENT (COPY)**

The following is an excerpt from the proposed HRA Modification indicating the proposed changes to the original HRA.

WHEREAS:

A. The Owner is the registered owner of that parcel of land in the City of Vancouver, in the Province of British Columbia, having a civic addresses of 1230 Matthews Avenue and legally described as Parcel Identifier: 024-567-574, Lot E Block 60 District Lot 526 Group 1 New Westminster District Plan LMP42938 (the “Lands”);

B. As part of a proposed development of the Lands under Development Permit Application No. DE403237, the previous owner of the Lands and the City entered into a heritage revitalization agreement in respect of the Lands, notice of which was registered on title the Lands in the Land Title Office on October 22, 1999 under No. BN283794 (the “HRA”), which agreement is binding on the current Owner; and

C. The City and the Owner have agreed to modify the HRA on the terms and conditions set out herein, subject to enactment of a by-law authorizing this Agreement pursuant to Section 592(4) of the *Vancouver Charter*.

NOW THEREFORE in consideration of the matters referred to in the foregoing recitals, covenants and agreements herein contained and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged and agreed to by the Owner and the City), the Owner and the City hereby covenant and agree as follows:

1. **Interpretation.** All capitalized terms in this Agreement, unless otherwise defined in this Agreement, have the meanings ascribed thereto in the HRA.
2. **Modification of HRA.** The HRA is hereby modified as of the date that this Agreement is registered in the Land Title Office as follows:
 - (a) Recital B is deleted and replaced with the following:

“B. The Lands are presently zoned First Shaughnessy District under the City’s Zoning and Development By-law No. 3575 (the “Zoning and Development By-law”) and are subject to the Heritage Conservation Area Official Development Plan (the “Heritage ODP”).”;
 - (b) Recital D is deleted and replaced with the following:

“D. The Owner has applied to:

 - (a) relocate the Heritage House to front on Selkirk Street at the location shown on Schedule “A” attached hereto and forming part hereof and convert the Heritage House into a two unit multiple conversion dwelling building, pursuant to development application DE403237;

- (b) relocate and restore the brick outbuilding (herein called the “Gazebo”) approximately at the location shown on Schedule “A”, pursuant to development application DE403237; and
 - (c) construct a new single family dwelling of approximately 11,900 square feet (herein called the “New House”) pursuant to development application DP-2023-00570.”;
- (c) Recital E is deleted and replaced with the following:

“E. The Owner is not permitted to relocate the Heritage House and construct the New House on the Lands because of numerous restrictions and limitations of the Heritage ODP and the Zoning and Development By-law.”;
- (d) Recital F is deleted and replaced with the following:

“F. To allow the Owner to relocate the Heritage House to front onto Selkirk Street as contemplated by DE403237, and to construct the New House as contemplated by DP-2023-00570, the City agrees that the Heritage ODP and the Zoning and Development By-law as they apply to the Lands should be varied as set out herein.”;
- (e) Section 1 is deleted and replaced with the following:

“1. To the extent necessary, as applies to the Lands, the Heritage ODP and the Zoning and Development By-law are hereby varied so as to permit:

 - (a) the relocation of the Heritage House to the new location fronting Selkirk Street approximately as shown on Schedule “A”, as contemplated by DE403237;
 - (b) the conversion of the Heritage House into a two unit multiple conversion dwelling building and its use only as two dwelling units, as contemplated by DE403237; and
 - (c) the construction of the New House and its use only as a single family dwelling, as contemplated by DP-2023-00570.”;
- (f) Section 5 is amended by deleting the phrase “section 10.1” and replacing it with the phrase “section 10.34”; and
- (g) Section 6 is deleted and replaced with the following:

“6. The Owner may not alter the appearance of, renovate, reconfigure or replicate:

 - (a) the Heritage House or the Gazebo except as may be permitted by DE403237 or by a heritage alteration permit and the terms, requirements and conditions thereof; or

- (b) the New House except as may be permitted by DP-2023-00570 or by a heritage alteration permit and the terms, requirements and conditions thereof.”.
3. **HRA Ratified and Confirmed.** Except as hereby expressly modified, the HRA is hereby ratified and confirmed by the City and the Owner to the effect and with the intent that the HRA and this Agreement will be read and construed as one document.
 4. **Conflict.** In the event of any conflict between the terms and conditions of the HRA and this Agreement, the terms and conditions of this Agreement will prevail.
 5. **Further Assurances.** The City and the Owner will do and cause to be done all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Agreement.
 6. **Binding Effect.** This Agreement will enure to the benefit of and be binding upon the City and the Owner and their respective successors and permitted assigns.
 7. **Amendment.** No alteration or amendment of the Agreement or this Agreement shall have effect unless the same is in writing and duly executed by all the parties.
 8. **City’s Other Rights.** Nothing contained or implied in this Agreement will derogate from the obligations of the Owners under any other agreement with the City or, if the City so elects, prejudice or affect the City’s rights, powers, duties or obligations in the exercise of its functions pursuant to the *Vancouver Charter* and the rights, powers, duties and obligations of the City under all public and private statutes, by-laws, orders and regulations, which may be, if the City so elects, as fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the owners and the City.
 9. **Time.** Time shall be of the essence of this Agreement.

EXCERPT FROM ORIGINAL HRA (ARTICLES C AND 1)

C. The circa 1910 house presently situate on the Lands is popularly known as the Lando House and is listed in Category "B" in the Vancouver Heritage Register and is herein called the "Heritage House".

D. Pursuant to development application DE403237 the Owner has applied to:

- a) relocate the Heritage House to front on Selkirk Street at the location shown on Schedule "A" attached hereto and forming part hereof and convert the Heritage House into a two unit multiple conversion dwelling building;
- b) relocate and restore the brick outbuilding (herein called the "Gazebo") approximately at the location shown on Schedule "A"; and
- c) construct a new single family dwelling of approximately 11,000 square feet (herein called the "New House") at the location shown on Schedule "A".

E. The Owner is not permitted to relocate the Heritage House and construct the New House on the Lands because of numerous restrictions and limitations of the First Shaughnessy Official Development Plan.

F. To allow the Owner to relocate the Heritage House to front onto Selkirk Street and to allow the Owner to construct the New House fronting on Matthews Avenue all as contemplated by development application DE403237 the City agrees that the First Shaughnessy Official Development Plan as it applies to the Lands should be varied as set out herein.

G. By section 592 of the Vancouver Charter, a Heritage Revitalization agreement may allow variations of and supplements to provisions of, among others, the Subdivision By-law, the zoning by-laws, a development permit and variation of a Heritage Alteration Permit or a by-law made under Part XXVIII of the Vancouver Charter.

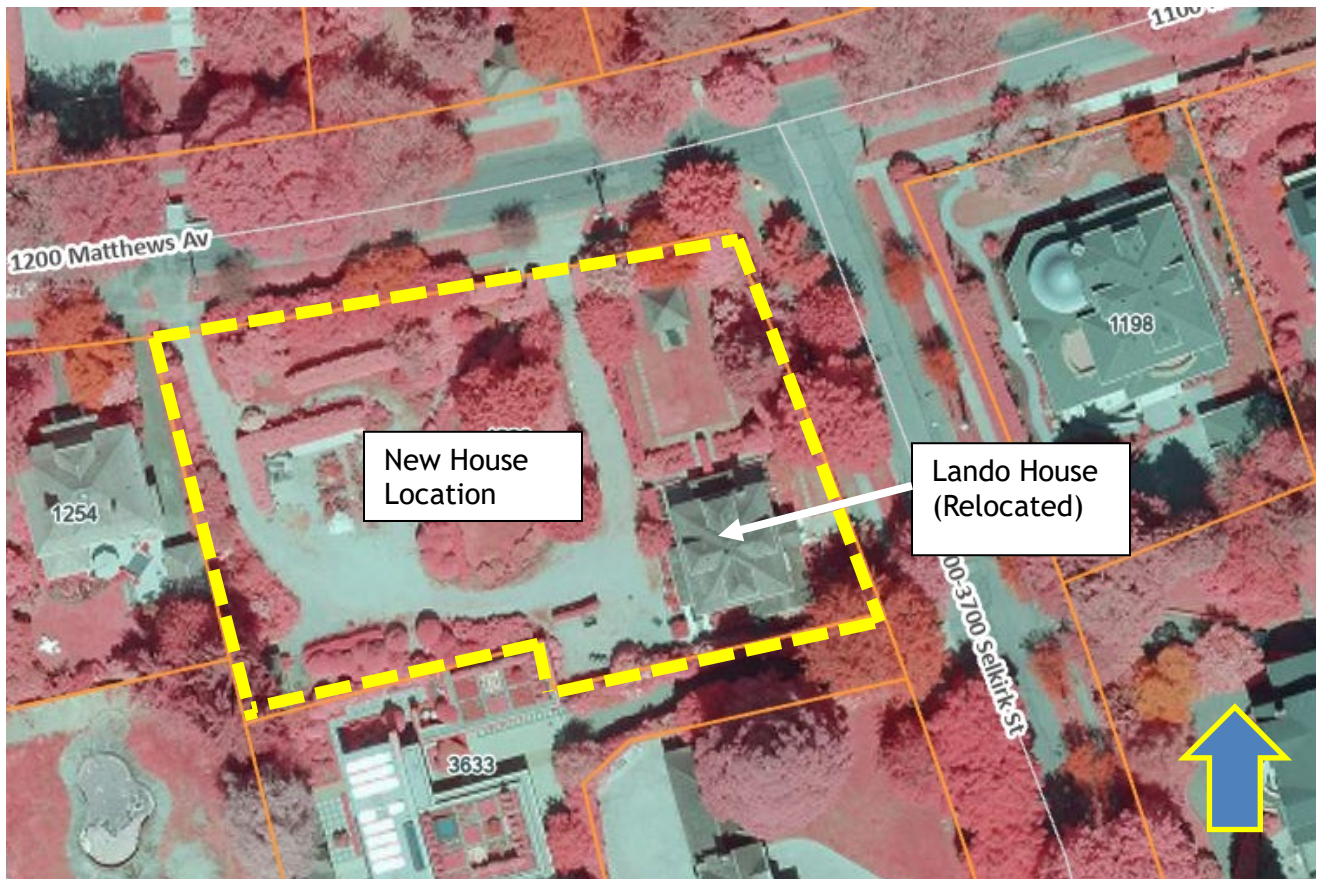
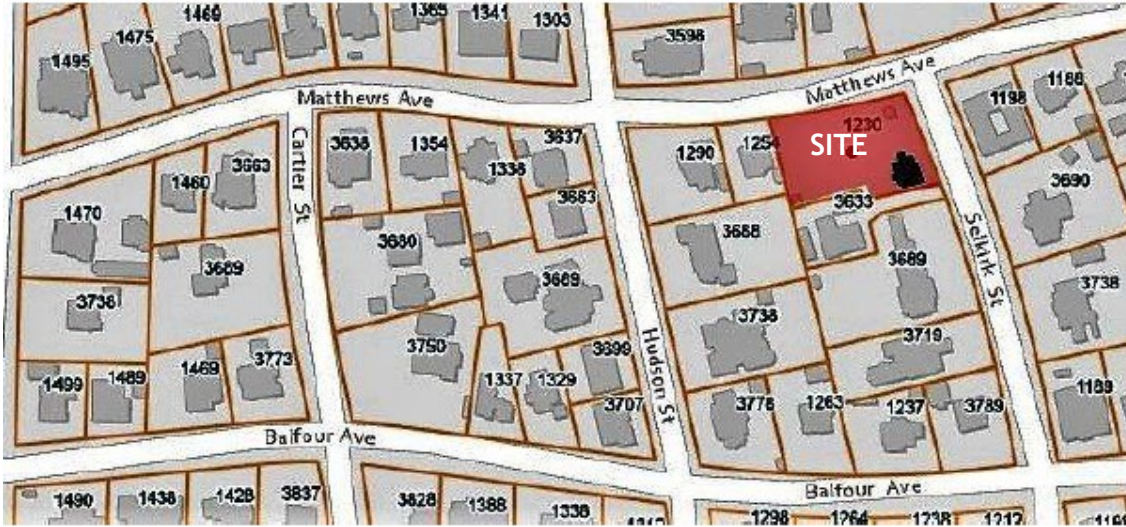
NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the sum of Ten Dollars (\$10.00) now paid by the City to the Owner and vice versa and for other good and valuable consideration (the receipt and sufficiency of which the Owner and the City hereby acknowledge) the Owner and the City each covenant with the other pursuant to Section 592 of the Vancouver Charter as follows:

1. To the extent necessary, as applies to the Lands the First Shaughnessy Official Development Plan is hereby varied as so as to permit:
 - (a) the relocation of the Heritage House to the new location fronting Selkirk Street approximately as shown on Schedule "A";

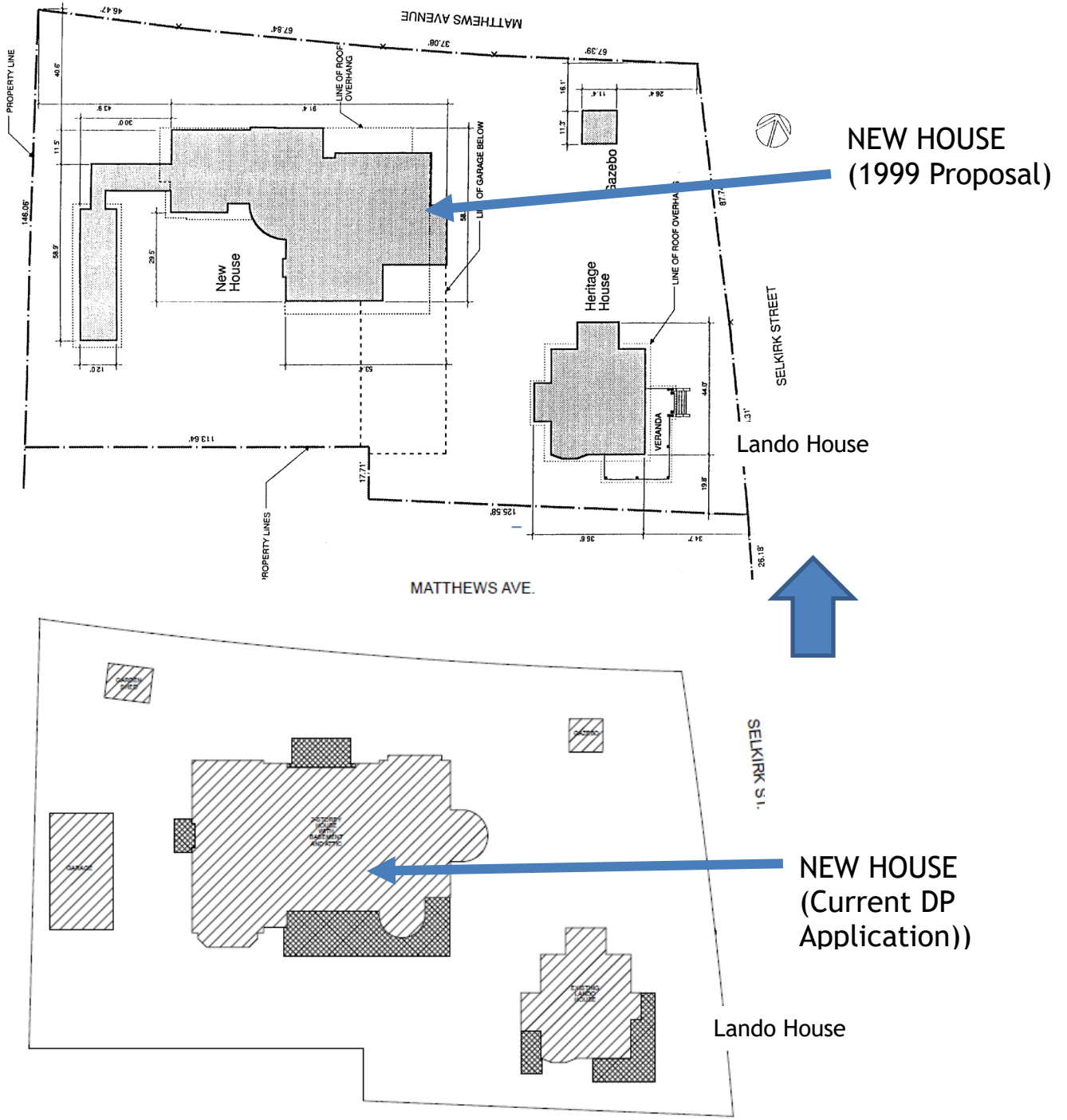
- (b) the conversion of the Heritage House into a two unit multiple conversion dwelling building and its use only as two dwelling units; and
- (c) construction of the New House at the location fronting Matthews Avenue approximately as shown on Schedule "A" and its use only as a single family dwelling,

all as contemplated in development application DE403237.

1230 Matthews Avenue
DRAWINGS AND MAPS



Site Diagrams

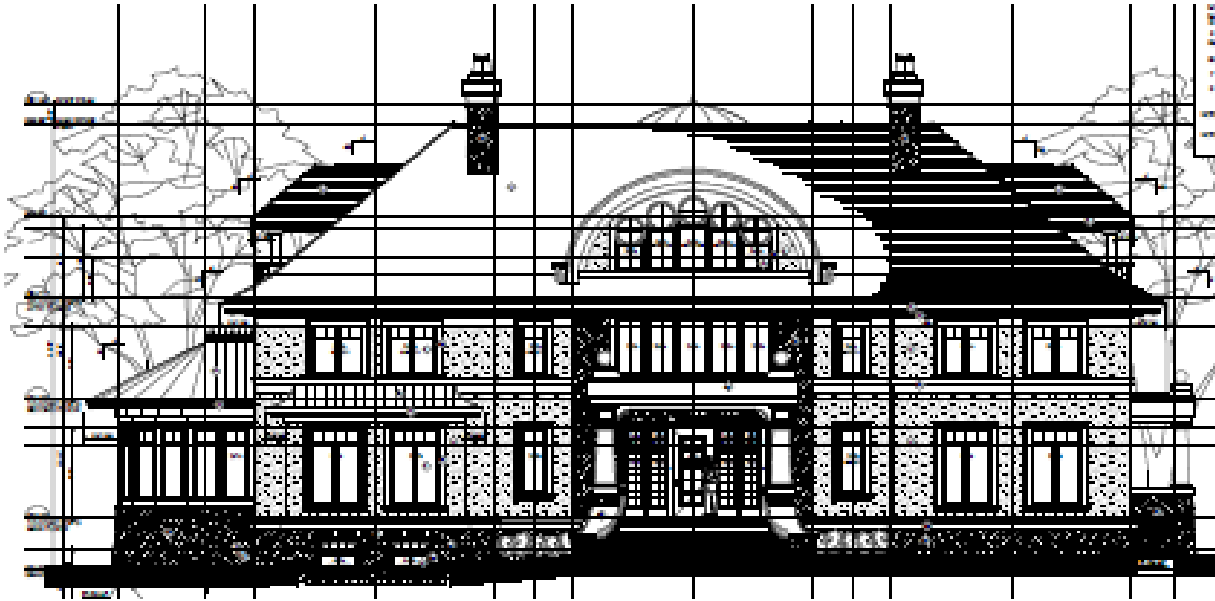


Siting Diagrams – Original DP (Top) and Current DP Application (Bottom)

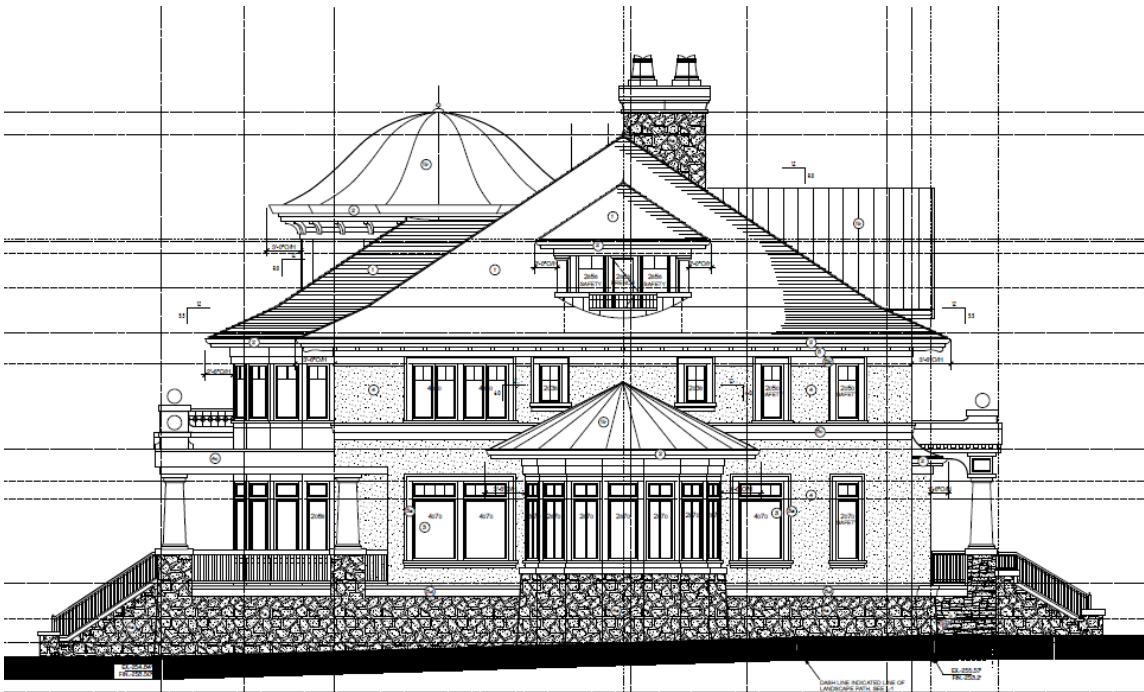


Streetscape Diagram – Current DP Application

1230 Matthew Avenue
DESIGN OF THE NEW HOUSE – CURRENT DP APPLICATION



New House Front Façade (Matthews Avenue) – Current DP Application



New House East Elevation (Facing Selkirk Street) – Current DP Application

**1230 Matthew Avenue
TECHNICAL SUMMARY**

Site Area: 3,091 m2 (33,263 sq. ft.)

Item	Current FSD Zoning (FSD District Schedule)	Original DP + HRA	Proposed DP Application + HRA
# of Buildings	Principal Building Plus Infill Development Permitted	Two Principal Buildings	Two Principal Buildings
# of Dwelling Units	3 – 6 or more*	3	3
Floor Area of the New House	-	1,025 m2 (11,790 sq. ft.)	1106 m2 (11,900 sq. ft.)
Floor Area of the Lando House	-	344 m2 (2,950 sq. ft.)	344 m2 (2,950 sq. ft.)
Total Density** (above basements)	1,391 sq.m. (14,968 sq. ft.) Maximum	1,370 sq. m. (14,740 sq. ft.)	1,380 sq. m. (14,850 sq. ft.)

Notes:

* The *FSD District Schedule* was recently amended to reflect the *Vancouver Charter* changes resulting from Bill 44: Housing Statutes (Residential Development) Amendment Act, 2023 (refer to [RTS 16350](#)).

** Technically the New House is an 'infill' building, whereas the much smaller Lando House is the principal building. This is a reverse of the normal situation where a principal building would be much larger than an infill building, and the *FSD District Schedule* reflects this in prescribing lower densities for infill development, and more for principal buildings. In this case, this situation would adversely affect the size of the New House considerably and result in an overall density much lower than would be permitted otherwise in the zoning for a more common larger-principal building site. Alternatively, density could have been added to the Lando House in extensive additions to "max-out" the permitted density as a principal building, compromising conservation considerably.

Under the current zoning, the maximum size for an infill building is 3,369 sq. ft., approximately the same as was the case under the previous zoning. This is about the same size as the Lando House as a principal building, as show in the table above.

This condition was the purpose behind the original HRA - that in return for the conservation of the Lando House, two principal buildings would be authorized so that the New House could be designed up to a reasonable density for what is permitted on the site. The FSD ODP allowed density up to approximately 15,000 sq. ft. in area for the site - similar to the current zoning. Although the zoning has changed from the *FSD ODP* to the *FSD District Schedule*, the permitted densities are similar between the two zonings and thus the overall context in which the original HRA was considered has changed very little in terms of permitted densities as shown in the table above.