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**Development Permit Panel**

**Wednesday, August 25, 2010**

Time: 3:30 p.m.  
Place: Council Chambers  
Richmond City Hall  
Present: Joe Erceg, Chair  
John Irving, Director of Engineering  
Vern Jacques, Acting Director, Recreation

The meeting was called to order at 3:30 p.m.

**1. Minutes**

It was moved and seconded

*That the minutes of the meeting of the Development Permit Panel held on Wednesday, August 11, 2010, be adopted.*

**CARRIED**

**2. GENERAL COMPLIANCE - REQUEST BY FORTUNE VENTURE ENTERPRISES LTD. FOR A GENERAL COMPLIANCE RULING AT 8228 WESTMINSTER HIGHWAY**

(File Ref. No.: DP 05-297678) (REDMS No. 2818395)

APPLICANT: Fortune Venture Enterprises Ltd

PROPERTY LOCATION: 8228 Westminster Highway

**Manager's Recommendation**

That the plans, attached to the Request for General Compliance application, dated July 16, 2010, from the Director of Development, involving changes to the parking layout and building elevations be considered in General Compliance with Development Permit (DP 05-297678).

### **Applicant's Comments**

Matthew Cheng, Architect, advised that during the construction phase of the 12-storey, mixed-use commercial and residential building on Westminster Highway, at Buswell Street, many problems had arisen. Mr. Cheng noted that the site presented constraints and he then provided the following details as examples of the problems encountered during the construction phase:

- the plans for the translucent canopy at the north-east corner at the street level was changed as a result of the discovery of a traffic light at that corner;
- the location and design of the ground floor loading area was changed in order to fit the gas meter off the lane at the south end of the subject site;
- the approved landscaping design that stipulated a combination of evergreens and fall colour shrubs around the perimeter of the roof was changed in order for residents to enjoy an unblocked view; and
- the number of storefront doors to the retail/commercial spaces at the street level was increased when, during construction, the exact number of commercial units was determined.

The Chair noted that the recently completed building was not built in accordance with approved plans. He noted that since the approval of the original Development Permit, and Building Permit, changes to the approved plans had been introduced without informing the City or seeking approval from the City.

In response Mr. Cheng stated that he did not know how to resolve the design problems that arose during the construction phase, but that the developer had come up with ideas on how to solve the problems, and the developer had helped with discussing the changes with various City departments.

Mr. Cheng noted that the developer's help included contacting and sending emails to staff of individual City Departments, and then forwarding those emails from the City to him, the architect. He further stated that during the construction process he prepared all documents pertaining to the design and building changes, and then waited for the end of the building phase to present the consolidated changes to the City, seeking the City's approval. He concluded that some of the changes did not work out too well.

### **Staff Comments**

Brian J. Jackson, Director of Development stated that City staff invests time in (i) the scrutiny of an applicant's design, and (ii) discussing options for improving conditions regarding how that design will function in relation to the interface with the street, and that this is done with an applicant throughout the development permit process.

Mr. Jackson advised that when the City approved the Development Permit for this project, decisions had been reached with regard to how visitor parking would be designed, as well as how the loading area turning radius could accommodate vehicles. But, subsequent to the issuance of the Development Permit, and the issuance of a Building Permit, the applicant and architect had moved the loading area to a location completely different from that in the approved plans. In addition the bicycle parking location had been moved, and without any approval from the City, the visitor parking spaces had been relocated as well.

Mr. Jackson further stated that the loading area had changed from an approved three-point turning movement, for trucks to access the building loading space from the lane, to an unapproved eleven-point turning movement. Discussions with City staff, and implementation of changes to this as-built condition, had finally reduced the required movements to enter the loading area to eight.

He stated that while staff is in agreement with the general compliance, it is an extremely reluctant agreement. The building construction is complete and approximately half of the 43 dwelling units are occupied.

In closing, Mr. Jackson stated emphatically that the applicant should understand that any changes must be reviewed and formally approved by staff with a new General Compliance Application and amended Building Permit Drawings, and that a situation like the one under discussion by the Panel should never happen again.

### **Panel Discussion**

It was noted that the City has received complaints from residents who live to the south and to the west of the recently completed building with regard to the current location of the loading area, and in response to a query regarding what plans the applicant has to address these complaints, Mr. Cheng advised that (i) he was unable to provide an answer, and (ii) he had not consulted the neighbouring residents.

In response to a further query regarding whether there was a way for the building to revert to the original, approved design, Mr. Cheng responded that there was no way to return to the original, approved design.

A discussion then ensued among the Panel, staff and Mr. Cheng regarding the reconfiguration of the parking levels and if building transfer beams were feasible, with advice being provided that the idea would necessitate the building being torn down, and the construction of the building to start over again.

In response to the Chair's query regarding the relocation of the loading area, Mr. Jackson advised that the loading area was moved closer to the dead end of the lane and to a position that is parallel to the access ramp to resident parking levels, thereby making manoeuvring difficult.

The Chair reiterated that the applicant and architect had deviated from the Development Permit, and Building Permit, approved designs without permission, and that this action had negatively impacted the building's functionality. In response to his query regarding any safety issues that had arisen as a result of the unapproved changes, Mr. Jackson advised that there were no outstanding safety issues.

The Chair advised Mr. Cheng that while the Panel was troubled by the number of times anomalies in his plans were drawn to the Panel's attention, the Panel has never been asked to consider a departure from approved plans. He noted that the architect should have anticipated the challenges inherent in the design of the subject site, and mentioned in particular that the traffic light at the corner of Buswell Street and Westminster Highway had been at that location when, in 2006, the project had been presented to the Development Permit Panel. In response to his request that Mr. Cheng further explained the unapproved changes, Mr. Cheng advised that the developer relocated the transformer and electrical kiosk within the parking structure, due to the discovery of the high cost of placing these elements on an upper parking level, rather than the ground level.

When asked by the Chair whether Mr. Cheng was aware that the construction of the building was inconsistent with the original, approved plans, Mr. Cheng responded that the developer communicated individually with several City departments during the construction phase, and that when the developer received emails from individual City Department's staff stating that the changes were acceptable, he then made the changes to the construction plans to satisfy the developer. Mr. Cheng did not notify, nor did he request approval from the City regarding changes to the Building Permit drawings.

In response to a query from the Chair, Mr. Jackson advised that Planning and Building staff became aware of the design changes to the approved plans only when the "as built" drawings were submitted.

### **Correspondence**

None.

### **Gallery Comments**

Matthew Chen, Fortune Venture Enterprises Ltd., stated that:

- when 8200 and 8220 Westminster Highway had been purchased, the development company had wanted to purchase an adjacent piece of property, but that the property owner did not sell to Fortune Venture Enterprises;
- the recently completed 12-storey building occupies a small site and this led to the design difficulties;
- a contribution of \$160,000 had been made to the City as compensation for the shortage of parking spaces;
- the loading area's size is large enough to accommodate the vehicles servicing the commercial spaces;
- creating separate residential and commercial garbage recycling rooms, as well as requirements for the transformer equipment and electrical kiosk left almost no space; and
- the architect had difficulty designing the parking area, due to the unavailability of the adjacent piece of property that Fortune Venture Enterprises was unable to purchase.

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Mr. Chen remarked that he was hopeful that the Panel would approve the requested General Compliance.

The Chair noted that these issues were either Rezoning Conditions or known to the applicant at the time of original Development Permit approval.

**Panel Discussion**

The Chair noted that the Panel had never considered such a serious breach of the normal design approval process. He stated that there was nothing unexpected that would cause a redesign during the construction phase, and that the developer and architect had a legal obligation to revise the Building Permit drawings and seek official permission from both Planning and Building staff for the changes and not rely on emails.

The Chair noted that, with residents already living in the recently completed residential tower, they could not receive their final occupancy approval until, or unless, the Panel approved the General Compliance. He added that because the developer and architect, as project leaders, failed to fulfil their design duties, the Panel was now put in an unenviable position.

The Chair stated that staff had done what they could and noted that there were no safety issues involved. For these reasons he would support staff's reluctant recommendation to approve the General Compliance.

**Panel Decision**

It was moved and seconded

*That the plans, attached to the Request for General Compliance application, dated July 16, 2010, from the Director of Development, involving changes to the parking layout and building elevations be considered in General Compliance with Development Permit (DP 05-297678).*

**CARRIED**

The Chair advised that the Panel had not heard from either the architect or the developer of any mitigating factors, and for this reason he directed staff to review whether the situation warranted a complaint being filed with the Architectural Institute of B.C. (AIBC) under the association's "professional conduct" measures.

**3. Development Permit 09-457354**

(File Ref. No.: DP 09-457354) (REDMS No. 2821569)

APPLICANT: Johnny Leung

PROPERTY LOCATION: 8171 and 8191 Leslie Road

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**INTENT OF PERMIT:**

1. Permit the construction of a commercial complex including retail spaces and carwash services at 8171 and 8191 Leslie Road on a site zoned Auto-Oriented Commercial (CA); and
2. Vary the provisions of Richmond Zoning Bylaw 8500 to:
  - a) reduce the exterior (east) side yard setback from 3.0 m (9.8 ft.) to 0.0 m (0.0 ft.);
  - b) reduce the interior (west) side yard setback from 3.0 m (9.8 ft.) to 0.0 m (0.0 ft.);
  - c) reduce the front (south) yard setback from 3.0 m (9.8 ft.) to 2.2 m (7.2 ft.) to allow an overhead gateway structure be erected along the Leslie Road frontage;
  - d) reduce the width of three (3) standard parking stalls from 2.65 m (8.7 ft.) to 2.5 m (8.2 ft.) and the width of one (1) handicap parking stall from 3.7 m (12.1 ft.) to 3.5 m (11.5 ft.); and
  - e) reduce the on-site parking requirement from eight (8) stalls to six (6) stalls.

**Applicant's Comments**

Mr. J. Leung, Architect, spoke on behalf of the applicant and provided background information regarding the proposed commercial complex, with retail spaces, offices and a carwash service facility, with two frontages on Leslie Road and Hazelbridge Way. He drew the Panel's attention to the following details:

- the site is located in the Aberdeen Village of the City Centre Area Plan (CCAP) and the applicant and architect have worked with staff to ensure that the proposed design scheme satisfactorily addresses the urban design issues to comply with the CCAP;
- the proposed single-storey commercial retail and office building component front Hazelbridge Way;
- a breezeway located at the centre of the street fronting commercial building on Hazelbridge Way encourages pedestrian flow from the street to the parking and carwash behind;
- the location is an important corner in the Aberdeen Village and the design of the proposed development ensures it will become a landmark;
- due to budget constraints, the applicant has included fewer retail units than was originally planned;
- the proposed building has been pushed as close to the property line as possible in order to create a close relationship with the sidewalks;
- the size of the site can be described as compact, and allows for three queuing spaces for vehicles awaiting a carwash;

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- the landscape design plan includes as many landscaping elements as possible along both Leslie Road and Hazelbridge Way; and
- the landscape design will minimize the impact of the blacktop surface and the parking spaces.

**Staff Comments**

Mr. Jackson stated that after the applicant decided against a two-storey development, the applicant and architect worked cooperatively with the City to ensure that all elements of the design could be accommodated on the compact site.

He noted in particular that: (i) the management plan for the line-up of vehicles for the carwash ensures that traffic operations and safety, on Hazelbridge Way, are not adversely affected; (ii) the commercial retail/office units effectively wrap around the site thereby effectively blocking the view of the entry and exit doors of the carwash facility from the east and west; and (iii) the openings for the carwash bays are minimized.

Mr. Jackson advised that the requested variances are primarily a result of the applicant responding to the City's CCAP guidelines, and that staff supports the application and the variances.

**Panel Discussion**

In response to a query, Mr. Leung advised that the proposed solid fence, seven feet high, along the west property line would reduce noise emitted onto the neighbouring commercial property.

In response to the Chair's queries Mr. Jackson advised that:

- the acoustics report submitted by the applicant indicated that predicted sound levels comply with all the Public Health Protection Bylaw requirements for daytime hours; a restrictive covenant on carwash operation hours is part of the conditions placed on the development permit; if the carwash operator extends operating hours past daytime hours, the operator would add more noise attenuation elements;
- the applicant is to provide three City Centre standard benches along the Hazelbridge Way frontage; and
- if the six on-site parking stalls are all occupied, there are on-street parking opportunities along Leslie Road, within walking distance of the subject site.

**Correspondence**

None.

**Gallery Comments**

None.

**Panel Decision**

It was moved and seconded

*That a Development Permit be issued which would:*

1. *Permit the construction of a commercial complex including retail spaces and carwash services at 8171 and 8191 Leslie Road on a site zoned Auto-Oriented Commercial (CA); and*
  
2. *Vary the provisions of Richmond Zoning Bylaw 8500 to:*
  - a) *reduce the exterior (east) side yard setback from 3.0 m (9.8 ft.) to 0.0 m (0.0 ft.);*
  - b) *reduce the interior (west) side yard setback from 3.0 m (9.8 ft.) to 0.0 m (0.0 ft.);*
  - c) *reduce the front (south) yard setback from 3.0 m (9.8 ft.) to 2.2 m (7.2 ft.) to allow an overhead gateway structure be erected along the Leslie Road frontage;*
  - d) *reduce the width of three (3) standard parking stalls from 2.65 m (8.7 ft.) to 2.5 m (8.2 ft.) and the width of one (1) handicap parking stall from 3.7 m (12.1 ft.) to 3.5 m (11.5 ft.); and*
  - e) *reduce the on-site parking requirement from eight (8) stalls to six (6) stalls.*

**CARRIED**

**4. Development Variance 10-535569**

(File Ref. No.: DV 10-535569) (REDMS No. 2946353)

APPLICANT: Abbarch Architecture Inc.

PROPERTY LOCATION: 10780 Cambie Road

INTENT OF PERMIT:

1. Increase the maximum height for accessory structures from 12.0 m to 17.0 m; and
2. Reduce the minimum interior side yard setback for buildings from 3.0 m to 0.25 m. to permit the construction of a 70.35m<sup>2</sup> (approximate) recycling facility and a wind turbine tower at 10780 Cambie Road on a site zoned Auto-Oriented Commercial (CA).

**Applicant's Comments**

Michael Burton-Brown, Principal Architect, Abbarch Architecture Inc. addressed the Panel and made the following comments:



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- Abbarch Architect's client, BMW, is innovative in their approach to sustainability as demonstrated by the proposed recycling facility and proposed wind turbine tower;
- the provision of (i) a green roof and (ii) water leader pipes to aid in irrigation of on-site landscaping further demonstrate the innovation of the proposed project;
- an acoustic report indicates that noise generated by the planned vertical axis wind turbine is less than the ambient noise from vehicles on the adjacent highway, and the noise from aircraft flying over the subject site; and
- the benefit of a vertical axis wind turbine is that it eliminates any potential problems of the wind changing direction.

**Staff Comments**

Mr. Jackson spoke in support of the application, and the variances, and cited the innovation of the proposal. He noted that this project could set the standard for other, developments in the City, and that the applicant, in using its own proposed recycling facility, is reducing reliance on other recycling resources.

**Panel Discussion**

In response to a query regarding whether the wind turbine tower could be used for mounting cell phone satellites, Mr. Burton-Brown advised that in this case, the tower was not tall enough for that type of use.

In response to the Chair's query of staff regarding any discussions with the public health authority in relation to concerns with wind turbine towers, Mr. Jackson advised that:

- the acoustic report submitted by the applicant indicated that the anticipated noise level would be approximately 20 decibels, which is barely above audible;
- City staff spoke to the Richmond Health office and they indicated that they are guided by the Public Health Protection Bylaw, and that at a distance of nine feet from the wind turbine tower the noise level might reach 32 decibels; and
- the Bylaw stipulates that anything below 45 decibels is acceptable.

**Gallery Comments**

Andrew Maas, General Manager, Holiday Inn Vancouver Airport, 10720 Cambie Road, Richmond, addressed the Panel and outlined his two concerns:

- (i) the noise factor, and potential health problems such as stress and sleep deprivation, as a result of the wind turbine tower; and
- (ii) it is not aesthetically pleasing for hotel guests occupying rooms that overlook the wind turbine tower.

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Mr. Maas added that he applauds BMW's actions to promote environmentalism, but that he would prefer that BMW choose a different location on their property for the proposed wind turbine tower.

In response to the Chair's request for clarification regarding the variance sought by the application, Mr. Jackson confirmed that the requested variance to accommodate the proposed wind turbine tower referred only to the height of the tower, not to the turbine tower's location on the BMW property. Mr. Jackson added that the wind turbine tower is setback three metres from the property line that separates the BMW property from the Holiday Inn property, and that this setback complies with the Zoning Bylaw.

The Chair advised Mr. Maas that the zoning allows the wind turbine tower to be placed by the applicant adjacent to the parcel used for parking just south of the hotel complex.

Mr. Burton-Brown stated that in addition to the proposed wind turbine tower, a storage container and BMW's loading area are also located just south of the hotel complex, and that none of the structures are expected to block views.

### **Correspondence**

Andrew Maas, General Manager, Holiday Inn Vancouver Airport, 10720 Cambie Road, Richmond (Schedule 1)

Mr. Jackson advised that Mr. Maas' letter of August 23, 2010 outlined the two concerns (noise and proximity of the wind turbine tower) as stated to the Panel.

In response to the Chair's query regarding Mr. Maas' concern regarding potential health issues arising from proximity to wind turbine towers, Mr. Jackson advised that the Health Department had indicated that any noise level measurements under 45 decibels would not contribute to health issues.

In response to queries, Pete Sargent, Director of Operations – BMW, advised that:

- the wind turbine cannot be shut down during part of a 24-hour cycle;
- a vertical axis wind turbine produces extremely low decibel readings, and these are lower than a car (40 decibels) or a truck (50 decibels);
- anyone standing outdoors would hear a noise comparable to a fire in a fireplace, and anyone standing inside a building would be unable to hear the wind turbine;
- vehicles passing by the BMW site drown out any sound created by the wind turbine, and the site of the tower was chosen based on this criteria; and
- any kilowatts of surplus power created by the proposed wind turbine tower will be captured by the grid.

### **Panel Discussion**

The Chair expressed appreciation for the attention paid to the issue of noise. He added that the variance request for the turbine applies only to the height of the tower, as all setback requirements are met.

**Panel Decision**

It was moved and seconded

*That a Development Variance Permit be issued which would vary the provisions of Richmond Zoning Bylaw 8500 to:*

- 1. Increase the maximum height for accessory structures from 12.0 m to 17.0 m; and*
- 2. Reduce the minimum interior side yard setback for buildings from 3.0 m to 0.25 m.*

*To permit the construction of a 70.35m<sup>2</sup> (approximate) recycling facility and a wind turbine tower at 10780 Cambie Road on a site zoned Auto-Oriented Commercial (CA).*

**CARRIED**

**5. New Business**

None.

**6. Date Of Next Meeting: Wednesday, September 15, 2010**

**7. Adjournment**

It was moved and seconded

*That the meeting be adjourned at 4:35 p.m.*

**CARRIED**

Certified a true and correct copy of the Minutes of the meeting of the Development Permit Panel of the Council of the City of Richmond held on Wednesday, August 25, 2010.

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Joe Erceg  
Chair

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Sheila Johnston  
Committee Clerk