

Schedule 1 to the Minutes of the Development Permit Panel meeting held on Wednesday, September 16, 2020.

To Development Permit Panel
Date: SEPT 16, 2020
Item # 7
Re: DP 18-818403
7151 NO 2 ROAD

From: Alex Chang <ajc@lmlaw.ca>
Sent: September 16, 2020 11:42 AM
To: CityClerk
Cc: Courtnie Touet; Michael Chung (michaelchung@citybase.ca)
Subject: File: DP 18-818403, Applicant: Konic Development Ltd., Site: 7151 No 2 Road
Attachments: 20-09-16 LT City of Richmond re DP 18-818403 (00808566xDA33B).PDF

Please see the attached correspondence submitted on behalf of The Owners, Strata Plan BCS3356, concerning the above-referenced development permit application.

Please confirm that you received the attached correspondence and that it will be entered into today's meeting record.

Regards,

Alex J. Chang

Associate

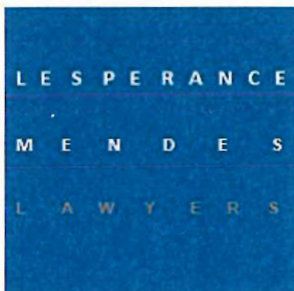
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L E S P E R A N C E
M E N D E S
L A W Y E R S

Reply to: Alex J. Chang
Direct Line: 604-685-1255
Email: ajc@lmlaw.ca
File: 2413-02

WWW.LMLAW.CA

September 16, 2020

REGISTERED MAIL AND EMAIL:

cityclerk@richmond.ca

City of Richmond, City Clerk's Office
6911 No. 3 Road
Richmond, BC V6Y 2C1

Dear Sirs/Madams:

**Re: File: DP 18-818403,
Applicant: Konic Development Ltd.
Site: 7151 No 2 Road**

We act for The Owners, Strata Plan BCS3356 (the "Strata") located at 7231 No. 2 Road.

We write to express the concerns that our client and its owners and residents have concerning the application for the development permit for 7151 No 2 Road (the "Lands").

Our client's property is immediately adjacent to the south of the Lands. While our client and we have not seen a copy of the development application, we understand from the public notice that the proposed development is for four townhome units with access to the lands via our client's property.

This proposed development is similar to a previous development permit application (2013 638387 000 00 RZ), which we understand did not proceed. Our client has the same concerns about this application as it did to the application in 2013. Those concerns were expressed in its letter to the City dated August 16, 2013, in response to the 2013 application.

Our client consists of 26 townhomes in a close-knit family community. Many of the residents have children that play in the front yards and sometimes on the driveways. The residents use these outdoor spaces for recreation more frequently due to the COVID-19 pandemic.

Sometimes residents or guests drive at unsafe speeds in through this family community. Fortunately, the Strata is able to manage the internal safety of its driveways by enforcing its bylaws and rules regarding road safety under the *Strata Property Act*.

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Our client has significant concerns regarding the proposed development. In particular, they are concerned about the suggested right to access the lands via the Strata's property during and after construction.

Suggested Right to Access the Strata's Property

Our client is concerned that as with the development applicant in 2013, the applicant in this case is of the view that the purchasers of the proposed townhomes would have an easement granting them access to the Lands via our client's property. Our client is also concerned that the developer intends to travel over the Strata's property to facilitate the construction.

Our client maintains that no such rights of access exist. We understand that the easement in question was granted when the Lands consisted of one home and that it was our client's property that was being developed. Had the intention been to grant a reciprocal right to access the Strata property to develop the Lands, those provisions could have been included in the easement.

We also understand that the easement purports to be a grant to the City of Richmond under s. 219 of the *Land Title Act*. However, s. 219 only grants rights to the City. It grants no rights to a private party like the developer. A s. 219 covenant is not enforceable to the extent that it purports to grant rights to a private party.

Our client also believes that it is unrealistic to believe that the large construction vehicles or their loads can reasonably fit within the easement area.

Access During Construction

As a matter of safety and practicality, the driveway running through our client's property is not large enough to accommodate additional traffic, particularly larger construction vehicles. Any additional traffic will present a safety concern and potentially cause damage to the Strata's property. The flow of construction vehicles would also interfere with the use of the Strata's common areas by causing increased traffic, noise, and debris. As noted above, the residents and their families have a greater need for those common outdoor areas during the pandemic.

Our client is also concerned that once the construction starts, the fence dividing the two properties will be removed, which would also increase the nuisance for our client. Residents are also concerned that with the fence removed to allow the flow of traffic into the Lands, that their children or pets may also be at risk of wandering into a construction site.

Our client is understandably concerned about the above nuisances and hazards. There is simply no practical way to minimize these hazards to their property and families.

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Access After Construction

Upon completion of construction, it would also be problematic for the purchasers of the development to access the Lands via the Strata property. These new neighbouring residents would not be a part of the Strata and, therefore, not subject to its bylaws and rules regarding the safety of the road. There would also be no mechanism that would allow the Strata to enforce its bylaws or rules against the residents of the Lands.

The neighbouring residents of the Lands would require regular vehicle access to the Strata's property to enter and leave the Lands. It would be unfair and unsafe for our clients to have one set of rules regarding the safe use of the driveway and for the residents of the Lands to have no rules apply to them at all.

Based on the foregoing, our clients ask that the City reject the development application.

Yours truly,

LESPERANCE MENDES

Per:



Alex J. Chang
cc. client