

Report to Development Permit Panel

To:

Development Permit Panel

Date:

October 7, 2009

From:

Brian J. Jackson, MCIP

File:

DV 04-275356

Re:

Director of Development

Application by Urban Design Group Architects Ltd. for a Development Variance Permit at 6911 Graybar Road

Staff Recommendation

That a Development Variance Permit be issued which would vary the provisions of Land Use Contract 127 (LUC127) to reduce the required setback from 7.5 m (24.606 ft.) to 0.0 m (0.0 ft.) along the Graybar Road frontage to permit a covered patio on a site located at 6911 Graybar Road.

Brian J. Yackson, MCIP Director of Development

EL:blg Att.

Staff Report

Origin

Urban Design Group Architects Ltd.has applied to the City of Richmond for permission to vary the Graybar Road setback from 7.5 m (24.606 ft.) to 0 m (0 ft.) to accommodate a covered patio on the property at 6911 Graybar Road (see **Schedule A**).

Findings of Fact

A covered patio at the Tugboat Annie's Pub and Restaurant was built on the east side of the existing building without a Building Permit. It was further determined that the structure did not comply with the setback provisions of Land Use Contract 127 (LUC127). In an effort to retain the structure, the applicant has applied to the City for a Development Variance Permit.

Chronology of Events

On July 28, 2000, our Building Inspector observed that addition and alteration to the outdoor patio have been made without the benefit of a Building Permit.

On July 31, 2000, our Supervisor of Building Inspections sent a registered letter to the owner indicating that additions and alterations have been done without Permit and provided a time limit for submitting a Permit application.

On October 26, 2000, Building Approval Division received a Building Permit application for the addition and alteration to the outdoor patio.

On December 12, 2000, our Plan Reviewer sent a letter to the applicant indicating that the addition to the outdoor patio built without Permit is situated within the Graybar Road setback and that a Development Variance Permit is required.

On August 3, 2004, the Development Applications Division received a Development Variance Permit application for a road setback variance to accommodate the existing covered patio built on the 7.5 m Graybar Road setback. Staff have been actively working with the applicant to address various issues related to the addition.

Surrounding Development

Land uses and development surrounding the subject site is as follows:

To the north and west: A large parcel of land zoned Land Use Contract (LUC127) for marina

use;

To the east: Across Graybar Road, a large parcel of land zoned Business Park

Industrial District (I3) for industrial use; and

To the south: Across Dyke Road, Fraser River.

Development Information

Please refer to the attached Development Application Data Sheet (Attachment 1) for a comparison of the proposed development data with the relevant bylaw requirements.

Staff Comments

Based on the survey plan provided by the applicant, the covered patio built without Permit is located at the southeast corner of the subject site, east of the existing building, and extends to the Graybar Road property line. The covered patio is also situated on top of an existing Statutory Right-of-Way (SROW) along the Graybar Road frontage. Further, the north wall of the patio (north of the covered walkway) extends beyond the property line into the Graybar Road Right-of-Way (ROW)(see **Attachment 2**).

Zoning Requirements

Under the provision of Land Use Contract 127 (LUC127), all buildings must be setback 7.5 m (24.606 ft.) from a property line abutting the public road. In order to retain the covered patio, the applicant has applied for a Development Variance Permit to vary the road setback from 7.5 m to 0 m along Graybar Road. If approved, this Development Variance Permit application will only apply to the existing covered patio on the east side of the principal building shown on the site plans attached to the Permit. All substantial renovations, building alternations, extensions or reconstruction shall be undertaken in accordance to the existing Land Use Contract 127 (LUC127).

Statutory Right-of-Way

A Statutory Right-of-Way (SROW) is currently registered over the easterly 6.0 m of the subject site (along Graybar Road frontage). It is determined that the construction of the covered patio contravenes the terms of the SROW Agreement. It is noted that this SROW is a tri-party right-of-way (ROW) shared between BC Hydro, Telus, and the City of Richmond; any modification of the SROW would involve consent from all parties. The applicant has advised that BC Hydro and Telus require conditional approval from the City of Richmond for the retention of the existing patio structure and modifications to the SROW Agreement prior to their considerations. The applicant will secure consent directly from these utility providers.

As a condition to the issuance of the Development Variance Permit, registration of an encroachment agreement on title to allow the covered patio to be located on the SROW is required. The applicant has agreed to the terms of the encroachment agreement, which will include language to ensure that:

- the owner be solely responsible for any damages and maintenance to the service lines under the patio;
- in the event of any construction or maintenance required within the SROW, the City have the rights to remove the covered patio situated on the SROW;
- any cost incurred for the removal of the covered patio will be charged to the Owner;
- the City is not responsible for the replacement of the covered patio; and
- the City is not responsible for any third party liability;

Site Servicing

The subject site is the end user of the sanitary sewer line located within the SROW on site along the east property line. A sanitary connection to the subject site is tied in from the manhole at the south end of the line (south of the patio). The Engineering Department has no concerns on the encroachment to the utility SROW, provided that a new manhole be located to the north of the patio with a new sanitary sewer connection prior to issuance of the Development Variance Permit. In order to facilitate this, a City Work Order is required to construct the new manhole at the applicant's sole cost and a Site Service Permit application is required to relocate the sanitary sewer connection. The cost for the works is estimated at \$55,400, and an additional right of way for the manhole will likely be required.

Encroachment to Road Right-of-Way

The wood wall at the north end of the covered patio extends beyond the Graybar Road property line for 0.13 m. There is a major drainage line located within the Graybar Road Right-of-Way adjacent to the subject site. The Engineering Department requires the patio to be relocated out of the Road ROW. The applicant has agreed to cut the wood wall back to the property line. An updated survey plan showing the patio is entirely located within the property line is required prior to the issuance of the Development Variance Permit.

On-site Parking and Loading

Based on the information provided by the applicant on land use and floor area distribution, including the proposed covered patio, 100 parking stalls are required in accordance to the parking requirements under the provisions of Land Use Contract 127 (LUC 127). There are only 41 parking stalls on site.

In order to provide adequate on-site parking and loading facilities for the establishments on the subject site, a Reciprocal Parking Easement (BB947289) has been registered on the title of the adjacent property to the north (6831 Graybar Road, which is owned by the same owner of the subject site) to provide additional parking and loading facilities for the use of the subject site. The applicant has confirmed that there are 116 stalls available on 6831 Graybar Road and 87 of them are assigned for the use of the subject site. Therefore, a total of 128 parking stalls are available for the use of the subject site between the two (2) properties. In addition, there is a shared loading area on 6831 Graybar Road to serve both of the properties. This arrangement satisfies all the parking and loading requirements of Land Use Contract 127 (LUC 127). The applicant has also demonstrated that the parking and loading arrangement satisfies the current off-street parking and loading requirements as per Section 400 of the Zoning and Development Bylaw 5300.

Building Permit

Further to the issuance of the Development Variance Permit, if approved, a Building Permit is also required in order to retain the covered patio on site. A separate Building Permit application is required and all applicable Building Permit and BC Building Codes requirements must be satisfied.

Liquor License

The Tugboat Annie's Pub and Restaurant is operating under a current liquor license. However, the additional capacity accommodated by the covered patio has not yet been incorporated into the liquor license. The Liquor Control and Licensing Branch will not be able to consider the increase in capacity until the Development Variance Permit is issued, the Building Permit is given Final Inspection, and Council Approval is given on the proposed increase of capacity (a separate report to Council from Business Licences is required).

Richmond 2006-2031 Flood Protection Management Strategy

The applicant is required to comply with the Flood Plain Designation and Protection Bylaw (No. 8204). In accordance with the Flood Management Strategy, a Flood Plain Restrictive Covenant specifying the minimum flood construction level is required. The minimum flood construction level for this site is 3.5 m geodetic.

Analysis

Staff do not foresee any adjacency issues, as the covered patio is located adjacent to a City boulevard in a remote industrial area. The covered patio adds articulation to the Graybar Road streetscape and emphasis the entrance to the restaurant. Landscaping has been installed in front of the patio as well as on the area to the north of it along Graybar Road to create a more interesting and pedestrian-friendly streetscape. All the relevant technical issues have been addressed. Staff have no objection to the proposal.

Conclusions

This Development Variance Permit application is required to accommodate a covered patio that was built without a Permit. Although such a variance is generally not supported, this variance will not create any adjacency issues. On this basis, staff recommend approval of the Development Variance Permit.

Edwin Lee

Planning Technician - Design

EL:blg

The following are to be met prior to forwarding this application to Council for approval:

- Registration of an Encroachment Agreement to allow the covered patio to be located on the Statutory Right-of-Way (SROW) currently registered over the easterly 6.0m of the subject site (along Graybar Road frontage). The Encroachment Agreement will include language to ensure that:
 - o the owner be solely responsible for any damages and maintenance to the service lines under the patio;
 - o in the event of any construction or maintenance required within the SROW, the City have the rights to remove the covered patio situated on the SROW;
 - o any cost incurred for the removal of the covered patio will be charged to the Owner;
 - o the City is not responsible for the replacement of the covered patio; and
 - o the City is not responsible for any third party liability.

- Construction of a new manhole at the northeast corner of the site via a City Work Order (estimated cost at of \$55,400, an additional right-of-way maybe required).
- Submission of a Site Service Permit application to relocate the sanitary sewer connection.
- Submission of an updated survey plan showing the patio (including the wood wall on the north side of the covered walkway) is entirely located within the Graybar Road property line.
- Registration of a floodplain covenant, specifying a minimum habitable elevation of 3.5 m, on title.

Prior to future Building Permit issuance, the developer is required to complete the following:

- The applicant is required to obtain a Building Permit for any construction hoarding associated with the proposed development. If construction hoarding is required to temporarily occupy a street, or any part thereof, or occupy the air space above a street or any part thereof, additional City approvals and associated fees may be required as part of the Building Permit. For further information on the Building Permit, please contact Building Approvals Division at 604-276-4285.
- Submission of a construction traffic and parking management plan to the satisfaction of the City's Transportation Division (http://www.richmond.ca/services/ttp/special.htm).



Development Application Data Sheet Development Applications Division

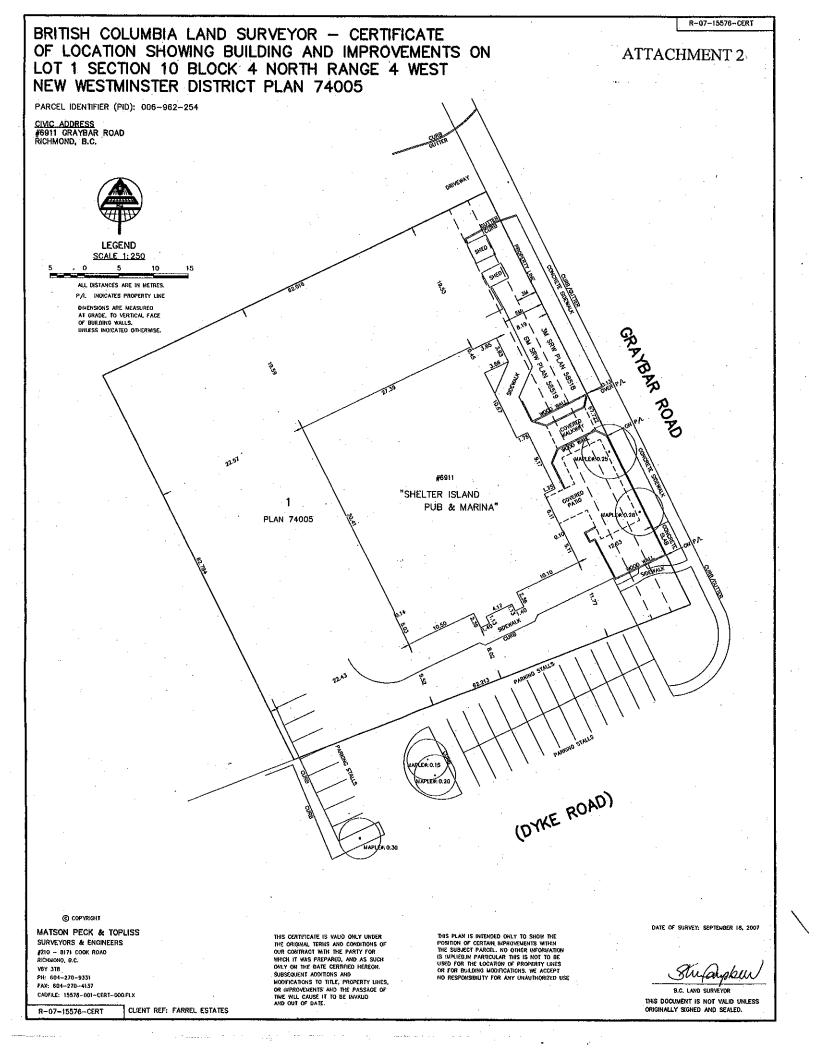
DV 04-275356 **Attachment 1**

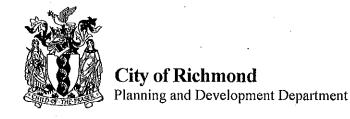
Address: 6911 Graybar Road

Applicant: Urban Design Group Architects Ltd. Owner: Farrell Estates Ltd.

	Existing	Proposed No Change No Change	
Site Area:	4,041 m ²		
OCP Designation:	Business and Industry		
Zoning:	Land Use Contract 127	No Change	

On Future Subdivided Lots	Bylaw Requirement	Proposed	Variance
Setback – Public Road:	Min. 7.5 m	0 m to Graybar Road	Variance Supported
Height (m):	Max. 12 m or 4 storeys	9.5 m	none
Lot Size:	0.2 ha	0.4 ha	none
Off-street Parking Spaces – Regular:	100	128	none
Off-street Parking Spaces – Accessible:	1	1	none
Total off-street Spaces:	100	128	none
Off-street Loading Spaces:	1	1	none
Tandem Parking Spaces	not permitted	none	none





Development Variance Permit

No. DV 04-275356

To the Holder:

URBAN DESIGN GROUP ARCHITECTS LTD.

Property Address:

6911 GRAYBAR ROAD

Address:

C/O PAUL CHIU

600 - 1140 WEST PENDER STREET

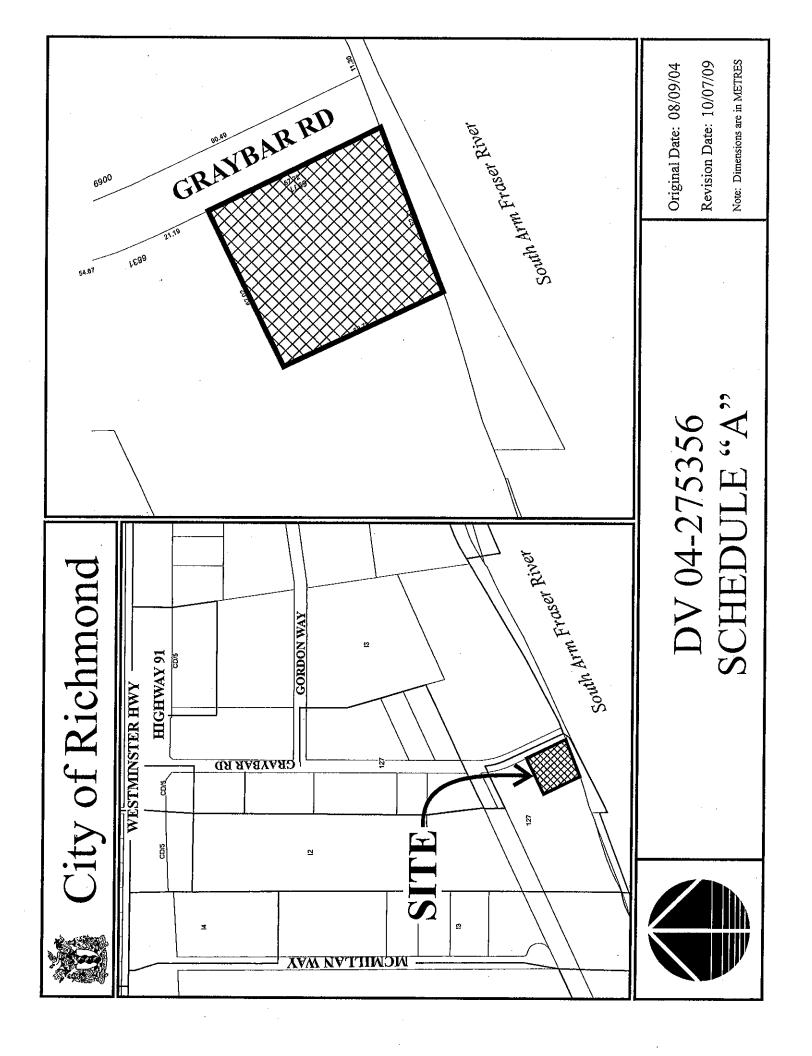
VANCOUVER, BC V6E 4G1

- 1. This Development Variance Permit is issued subject to compliance with all of the Bylaws of the City applicable thereto, except as specifically varied by this Permit.
- 2. This Development Variance Permit applies to and only to those lands shown cross-hatched on the attached Schedule "A" and any and all buildings, structures and other development thereon.
- 3. The "Land Use Contract (LUC127)" is hereby varied as follows:
 - a) buildings and structures; off-street parking and loading facilities; roads and parking areas; and landscaping and screening shall be constructed generally in accordance with Plans #1 to #3 attached hereto.
- 4. The land described herein shall be developed generally in accordance with the terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit which shall form a part hereof.
- 5. If the Holder does not commence the construction permitted by this Permit within 24 months of the date of this Permit, this Permit shall lapse.

This Permit is not a Building Permit.

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DELIVERED THIS	DAY OF	,	•

MAYOR

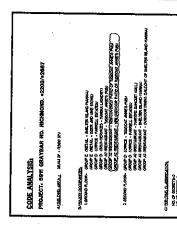


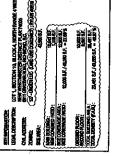
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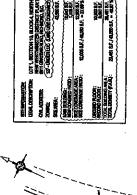
S RARRELL ESTATES LTD. 6911 GRAYBAR ROAD, RICHMOND, BC NEW PATIO ENCLOSURE FOR TUGOAT ANNIES FUB

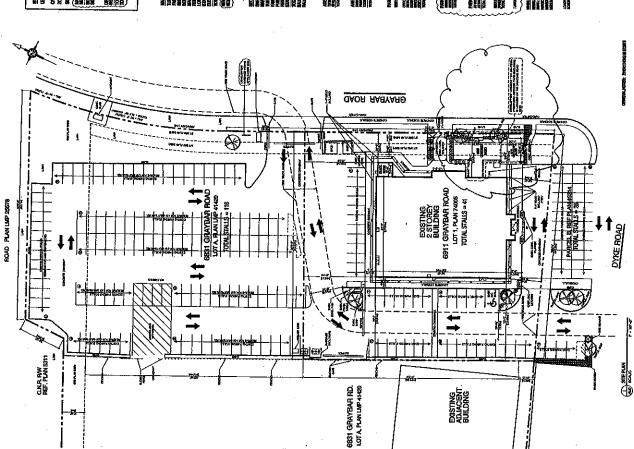


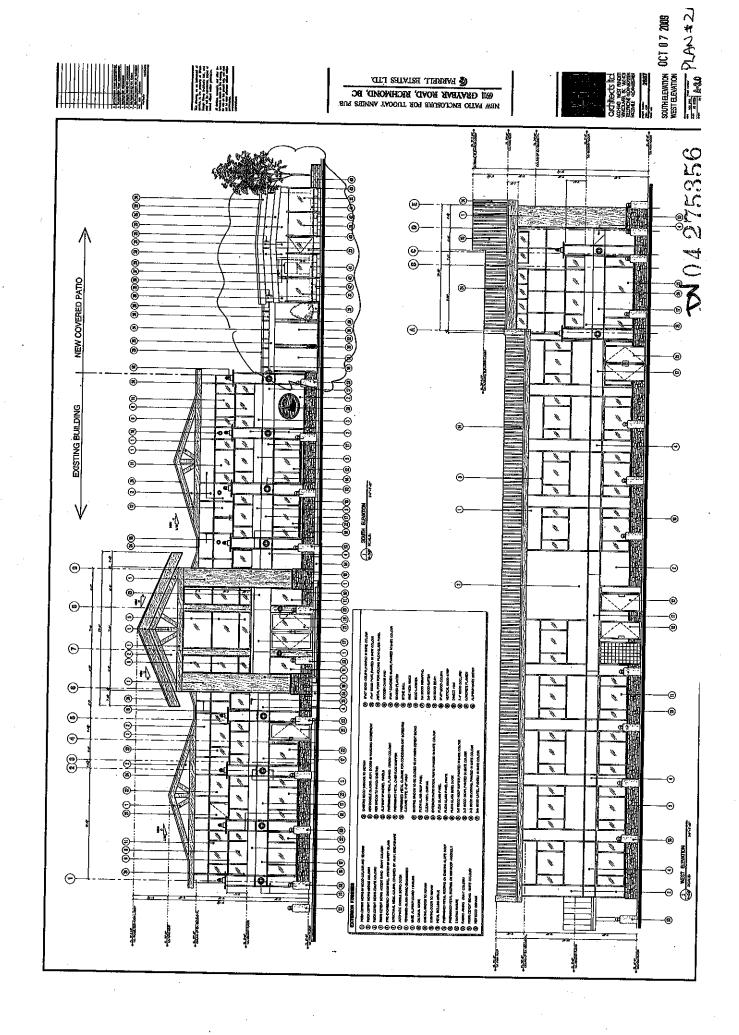












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