



Corporate Report

NO: L004

COUNCIL DATE: April 2, 2007

REGULAR COUNCIL - LAND USE

TO: Mayor & Council DATE: March 28, 2007
FROM: Acting General Manager, Planning and Development FILE: 7901-0097-00
SUBJECT: Proposed Official Community Plan Amendment and Rezoning
13852 - 101 Avenue - Brighton Place (Odyssey Phase 2)

RECOMMENDATION

It is recommended that Council receive this report as information and consider Third Reading of Rezoning By-law No. 16304.

BACKGROUND

At the Regular Council Meeting on March 12, 2007, a Public Hearing was held to amend the Official Community Plan (the "OCP") to redesignate the lot at 13852 - 101 Avenue from Multiple Residential to City Centre and to rezone the lot from Multiple Residential 45 Zone (RM-45) to a Comprehensive Development Zone (CD) to allow the development of a 4-storey, 20-unit apartment building and a 27-storey, 147-unit apartment tower (Application No. 7901-0097-00).

Following the Public Hearing, Council gave Third Reading to the OCP Amendment By-law (By-law No. 16303) redesignating the subject site from Multiple Residential to City Centre, but did not give Third Reading to Rezoning By-law No. 16304. Instead, Council passed the following resolution (Resolution R07-873):

"That "Surrey Zoning By-law, 1993, No. 12000, Amendment By-law, 2007, No. 16304" be referred back to staff for a report on easement issues, staff's rationale for the design of the second tower, the reason for the time lag for Phase 2, the change from the original density for Phase 2, and whether the applicant has the necessary financial backing to proceed".

This report is in response to Council's direction and responds to the questions contained in Resolution R07-873.

DISCUSSION

Background

In the early 1990s, Lark Group, proposed to construct a two-phase strata development which the developer chose to call Odyssey. Each phase of the development was to be located on its own fee-simple lot. Odyssey Phase 1, at 13880-101 Avenue, was to consist of a 20-storey, 109-unit apartment building. Odyssey Phase 2, on the adjoining fee simple lot at 13852-101 Avenue, was to consist of a 13-storey, 66-unit apartment building. The 20-storey tower that constitutes Phase 1 of the Odyssey project was completed and stratified in 1993.

As the project was to be a phased strata project, in conjunction with the stratification of Phase 1, the developer was required to file a Form P at Land Title Office in accordance with the *Strata Property Act*. A Form P lays out, among other things, the unit entitlement of each strata unit in the project, the location and size of the common indoor amenity space, and the date or dates on which the developer will decide (i.e., elect) to proceed with the construction of each additional phase of the phased strata project.

Following the completion of Phase 1, the developer did not move forward with the construction of Phase 2. In June 2006, the developer informed the Land Title Office and the Approving Officer, in accordance with the requirements of the *Strata Property Act*, that he was electing not to proceed with the construction of Phase 2 of the Odyssey project, as set out in the original Form P for the project.

With the election not to proceed with the construction of Phase 2 of the Odyssey project, any future development on the lot at 13852-101 Avenue will be a completely separate development from Odyssey Phase 1 and will not be part of the Phase 1 strata plan or part of the Phase 1 strata council. Electing not to proceed also meant that the developer is not bound by any development plans that had formed part of the original phased Odyssey project and is free to pursue other zoning and development options for the site without further involvement of the Odyssey Phase 1 owners.

Developer's Delay in Proceeding with Phase 2 ~~Developing the Subject Site~~

The developer, Lark Group, has offered the following explanation as to why such a long period of time elapsed between the completion of Phase 1 of the project and their decision not to proceed with Phase 2 of the project, and the subsequent decision to proceed with the rezoning and development of the subject site.

During the marketing of Odyssey Phase 1 in the early to mid-1990s, the market for high-rise apartment units in Surrey, and in Surrey City Centre in particular, collapsed. The market for high-rise apartment units in City Centre remained depressed for many years and did not begin to recover until the approval of the Infinity project at King George Highway and 100 Avenue in 2004.

However, as early as 2001, the developer began to explore the possibility of proceeding with Phase 2 of the project, with either the original Phase 2 building, or with an amended and modified design concept. At the same time, however, the need for building envelope repair on the Odyssey Phase 1 apartment tower became apparent and the developer did not feel it was appropriate to construct and market Phase 2 until this issue was resolved. However, resolution of this issue took longer than anticipated and several years passed before work began on the replacement of the exterior of the Odyssey Phase 1 apartment tower.

When the developer finally began to give serious consideration to starting development on the Phase 2 lot, it became apparent to the developer that market conditions and construction costs had changed considerably since the Phase 2 building was originally designed and that major revisions to the development concept for the lot would be required if the project was to be economically viable.

Planning Rationale for Proposed Density~~Developers Proposal to Increase Density~~

The subject site is permitted a maximum floor area ratio (FAR) of 2.5 under the current Multiple Residential designation in the OCP. Since the original project was approved by Council in 1985, significant changes to the land use have taken place in City Centre. Densification and urbanization have become increasingly important planning objectives for development within City Centre. Due to the urban nature of recent developments in City Centre, densities approaching an FAR of 2.5 have been achieved in 4-storey building forms. The 4-storey building form is not necessarily consistent with the objectives of City Centre. Sites adjacent to the subject property, along the south side of 101 Avenue, are designated for development similar to the current proposal for the subject site. Both the Odyssey Phase 1 tower and the proposed 27-storey residential tower are more consistent with the building height, form and density in the City Centre. In short, the proposed project density and high-rise building form are compatible with the emerging urban patterns of the City Centre.

Economic Rationale for Proposed Density

By increasing the allowable density from an FAR of 2.5 to the proposed FAR of 3.24, a concrete high-rise tower becomes feasible. By allowing more storeys, the form of tower becomes slender and elegant.

According to the project architect, if construction costs were the only factor in determining project feasibility, the tower floor plate would be as large as possible. However, a large tower floor plate would not meet the City's design objectives and would have a greater impact on the existing Odyssey Phase 1 tower and adjoining residential developments than a more slender tower. (The original Phase 2 tower had a floor plate of approximately 666 square metres/7,170 square feet, whereas the proposed tower has a floor plate of only 510 square metres/5,485 square feet) The net/gross ratio is much less efficient for a slender tower than a large floor plate tower as the stair/elevator core would be the same for either tower, so a building with a smaller floor plate has a higher percentage of

its floor area dedicated to circulation. With a lower net saleable floor area, a more slender tower needs to go higher to gain back some of this inefficiency, i.e. higher units can sell at a higher price thereby off-setting some of the loss of saleable floor area that results from the reduced efficiency.

As a result, the unit densities required to make a development economically viable is a balance between the City planning and design objectives for City Centre, the type of construction, size of building floor plate, building height, unit size and market conditions. For Lark Group, a project with a total 167 units, 147 of these units in a high-rise concrete tower, and a total site Floor Area Ratio (FAR) of 3.25 was deemed to be economically feasible on the subject site. Lark Group has offered the following rationale for the density currently being proposed for the subject lot at 1382-101 Avenue.

The subject site contains a number of constraints that severely limit the developable area of the lot. The site is encumbered by a number of easements, including an access easement running through the middle of the lot that allows vehicle access to the Odyssey Phase 1 parking facility, thereby effectively splitting the subject site in half. Further, the subject lot is oddly shaped, making the placement of rectangular buildings difficult. As well, a portion of the Phase 1 parking facility is actually located on the subject lot so that any building proposed for the subject lot must be designed around this existing Phase 1 parking facility.

Two, four-storey wood frame buildings could be built on the subject lot on either side of the central access easement, but the footprints of these two buildings would be restricted, given the size and shape of the subject lot, existing easements and the need to accommodate the existing Phase 1 parking facility. Further, the efficiency of four-storey wood frame buildings is maximized with rectangular building shapes which would be difficult to develop on the odd-shaped, restricted, development areas on the subject site.

As a result, constructing two wood frame apartment buildings on the site would result in the creation of approximately 40 apartment units assuming 65 square metre to 74 square metre (700 sq. ft. to 800 sq. ft.) units. Slightly more units could be achieved if unit sizes were reduced to 37 square metres (400 sq. ft.) or 46 square metres (500 sq. ft.). Nevertheless, 40 units, which would result in a density of 84 units per hectare (34 units per acre), is well below the 66 units originally planned for the lot. Further, a density of 84 units per hectare (34 units per acre) is well below the density of 125 to 200 units per hectare (50 to 80 units per acre) being achieved by other 4-storey apartment projects in City Centre and would not make the project viable.

In order to be able achieve the development of more than 40 units on the subject lot, it was necessary to consider concrete construction. However, given the high cost of construction compared to wood frame construction, a certain unit yield is required to make the project economically feasible.

If construction costs was the only factor in determining project feasibility, the tower floor plate would be as large as possible. However, a large tower floor

plate would not meet the City's design objectives and would have a greater impact on the existing Odyssey Phase 1 tower and adjoining residential developments than a more slender tower. (The original Phase 2 tower had a floor plate of approximately 666 square metres/7,170 sq. ft., whereas the proposed tower has a floor plate of only 510 square metres/5,485 sq. ft.) However, in terms of net floor area/gross floor area ratio, a slender tower with a smaller floor plate is less efficient than a tower with a larger floor plate. For example, the stair/elevator core would be the same for either floor plate, so a building with a smaller floor plate has a higher percentage of its floor area dedicated to circulation and thus lower saleable floor space. With a lower saleable floor space, a more slender tower needs to go higher to gain back some of this inefficiency i.e. higher units can sell at a higher price thereby off-setting some of the loss of saleable floor area that results from the lower efficiency.

As a result, the unit densities required to make a development economically viable is a balance between type of construction, size of building floor plate, building height, unit size and market conditions. For Lark Group, a project with a total 167 units, 147 in a high-rise concrete tower, and a Floor Area Ratio (FAR) of 3.25 was deemed to be economically feasible on the subject site.

Planning & Development Department Support for Increased Density

The subject site is located within the boundaries of Surrey City Centre. The subject site and the surrounding lands, therefore, are appropriate for high-density development. The subject site and surrounding lands are designated Multiple Residential under the Official Community Plan which, in City Centre, permits densities up to a FAR of 2.5. Given the size of units achieved in recently approved residential development in City Centre, an FAR of 2.5 could result in unit densities of at least 325 units per hectare (130 units per acre).

Most of the lands surrounding the subject site, however, were developed in the 1980s, before the creation of Surrey City Centre. The surrounding lands were redeveloped to densities below an FAR of 1.5 and below 112 units per hectare (45 units per acre), which reflected the densities and development patterns current in Surrey at the time. Therefore, even though the lands surrounding the subject site were not redeveloped to the densities currently deemed appropriate for this area of City Centre, it is appropriate for any new development in the area, including development on the subject site, to achieve the maximum densities currently permitted under the Multiple Residential designation.

One of the goals of the Surrey City Centre plan is to increase densities in order to create a more vibrant and urban environment. The Odyssey Phase 1 tower, containing 109 residential units in a 20-storey building, achieves this increased density. However, at 20 storeys in height, the Odyssey Phase 1 tower is the type of building form commonly associated with the RMC-135 and C-35 zones which permit a maximum FAR of 3.5 (a density that is permitted only in the City Centre designation) rather than with a building form and density associated with the Multiple Residential designation. (It should be noted, due to the fact that the Odyssey Phase 1 tower sits on a large lot that actually surrounds the townhouse

~~development to the south, the unit density of the Odyssey Phase 1 tower is only 50 units per acre and, therefore, can be accommodated in the Multiple Residential designation.)~~

~~The type of densities achieved by the proposed development on the subject lot (352uph/142upa and 3.25 FAR) are consistent with the goal of increasing densities in City Centre. Further, the high-rise building form proposed by the development is consistent with the building form already established by the Odyssey Phase 1 tower. As well, the subject site is only 170 metres (550 ft.) from other lots on the south side of 100 Avenue that are designated City Centre and which are proposed for high density, high-rise residential developments similar to the development proposed for the subject site. For these reasons, the Planning & Development Department supports the redesignation of the subject site from Multiple Residential to City Centre and supports the proposed density of the project.~~

Design Rationale Planning & Development Department Evaluation of Project Design

The developer began to explore the possibility of a modified design concept for the subject property as early as 2001.

When the applicant approached the Planning and Development Department with a plan to construct a high-rise residential tower on the subject site, the Planning and Development Department indicated that any high-rise tower on the site must be designed to mitigate the impact on the existing Odyssey Phase 1 tower and on adjoining residential developments. Maximizing the separation between the existing Odyssey Phase 1 tower and the proposed tower and designing the proposed tower to be as slender as possible are two ways in which the impact of the proposed tower can be lessened.

The developer maximized the separation between the proposed tower and the existing Odyssey Phase 1 tower by locating the proposed tower at the extreme southwest corner of the subject site ([Appendix I](#)). The proposed tower, at the closest point, is located 41 metres (135 feet) from the existing Odyssey Tower. By way of comparison, the recently approved 36-storey Infinity Phase 2 towers on the southwest corner of East Whalley Ring Road and 100 Avenue are 24 metres (79 feet) apart at the closest point and 37 metres (121 feet) apart at the farthest point. The two high-rise residential towers proposed for the south west corner of 108 Avenue and West Whalley Ring Road, the Rezoning By-law for which recently received Third Reading, have a 20-metre (67-foot) separation between towers. It should be noted that the original Phase 2 tower was to have been located approximate 15 metres (50 feet) from the Odyssey Phase 1 tower, which is much less than the separation between the existing Odyssey Phase 1 tower and the proposed tower.

By placing the tower on the extreme southwest corner of subject lot, the existing residential developments on the north side of 101 Avenue are less impacted by the shadow cast by the proposed tower than if it had been located along 101 Avenue. In fact, it appears that, by placing the proposed tower in the extreme southwest corner of the site, the residential developments on the north side of 101 Avenue

would not be impacted by shadows by the new building any more than they would have been impacted by the shadow created by the original Phase 2 tower, even though the proposed tower is taller than the original Phase 2 tower.

The developer is proposing a slender tower with a floor plate of only 510 square metres (5,485 square feet) compared to the original Phase 2 tower floor plate of 666 square metres (7,170 square feet). Not only is the proposed tower relatively slender, with only 6 units per floor, but it is designed to have a narrower end facing the Odyssey tower as a way to further reduce the impact on views from units in the existing tower. As described previously, the loss in efficiencies of a slender tower with a smaller floor plate is offset by the proposed 27-storey height of the current proposal.

Easement Issues

An easement is registered across the subject lot that is intended to provide service and utility installation, pedestrian passage, emergency vehicle access, private motor vehicle access and parking, and building encroachments for other properties, including the Odyssey Phase I tower.

As the proposed 27-storey tower straddles this easement, the applicant has been in discussions with the owners of Phase I to either discharge or realign this easement. As the developer was unsuccessful in negotiating either a discharge or realignment of this easement with the Phase 1 owners, the developer applied to the B.C. Supreme Court in 2006 to discharge the easement at the northeast corner of the lot that is used for utilities. The City of Surrey, which is a party to this easement, did not oppose the application to discharge the easement.

~~On November 17, 1987 an easement was registered at LTO under number AA21896, together with Explanatory Plans 76308 and 76309. This easement was registered on four lots; the subject lot, the Odyssey Phase I lot, the townhouse project to the south of the subject lot, and the apartment building site to the east of the Odyssey Phase I lot.~~

~~The purpose of the easement was to provide for service and utility installation, pedestrian passage, emergency vehicles, private motor vehicle access and parking, and building encroachments.~~

~~On January 27, 1989 a modification to the original easement was filed at LTO under number AC20553, along with Explanatory Plans 79125 and 80473. This easement was modified in conjunction with a resubdivision the subject lot, the Odyssey Phase I lot and the townhouse site to the south of the subject site.~~

~~The modification relocated the easement area and amended certain provisions of the original easement. For example, the number of parking spaces that could be located within the easement area was limited, and each lot was limited to using the easement area for private vehicle access to only one access from either 100th Avenue or 101st Avenue, depending on specific lot.~~

~~The developer provided the following information with respect to the removal of modified easement AC20553 from the subject site:~~

~~The developer, Lark Group, recently made application to the BC Supreme Court, seeking the removal of the modified easement AC20553 from the subject lot, except for a small portion of the easement at the northeast corner of the lot that is used for utilities~~ The basis for the application to remove the easement was, primarily, that the easement was obsolete. Legal counsel for the developer argued that the easement was obsolete because none of the purposes that originally generated the need for the easement remained, and that the easement area on the subject lot had never been used for any of the purposes set out in the easement agreement.

Three-quarters of the owners of the apartment building to the east of the Odyssey Phase 1 site, Strata Plan NW3024 passed a resolution consenting to the application to remove the easement.

The owners of the townhouse project to the south of the subject lot, Strata Plan NW2702, opposed the application. Two individuals from Strata Plan NW2702 swore affidavits that they had always understood that, eventually, there would be some kind of pedestrian access from their project to 101 Avenue, that this pedestrian access was something they valued and that, therefore, the easement was not obsolete.

The owners in the Odyssey Phase 1 tower, Strata Plan LMS1564, also opposed the application. Two individuals from Strata Plan LMS1564 (Odyssey Phase 1) swore affidavits that they had always anticipated that there would be green space and an open view to the southwest of the Odyssey Phase 1 tower. Both individuals own strata lots on an upper floor on the southwest side of the Odyssey Phase 1 tower.

~~The developer's legal counsel noted that individuals who own strata lots on the lower floors on the northwest side of the Odyssey Phase 1 tower, whose view of the north shore would have been affected by the original phasing plan and building footprint but whose views would be unobstructed if the proposed building was constructed, were not before the court.~~

The Court ruled that protecting a view or providing a green space was not part of the purpose of either the original or modified easement. The Court also ruled that, other than the requirement to provide pedestrian access through the subject site to 101 Avenue, the other reasons for the easement AC20553 were obsolete.

The Court permitted the parties to discuss the issue of pedestrian access and to return to the court with an alternate location for the pedestrian access easement. A new proposal was brought before the Court that would require the developer to provide a 2.0-metre (6.5 foot) wide easement along the west side of the subject lot, connecting 101 Avenue with the lands to the south. Unlike the original easement, the new proposal required the owner of the subject lot to build and maintain a pathway within this 2.0-metre wide easement. The original and modified easements did not place any obligation on any owner of the subject lot

to build or maintain any of the easement areas in such a way as to allow pedestrian access through the site to 101 Avenue.

The proposal to create a 2.0-metre wide easement along the western edge of the subject lot and for the developer to construct and maintain a pathway within this easement was supported by Strata Plan NW2702, the townhouse project to the south, but continued to be opposed by Strata Plan LMS1564, Odyssey Phase 1.

More recently, the Court found that the proposed modification to the easement (i.e., the creation of a 2.0-metre wide easement along the western edge of the subject lot) did not injure the owners of LMS1564, Odyssey Phase 1, as they would continue to have an easement for pedestrian access, and that the narrower width of the easement was not an injury given that the other purposes of the original easement, which required a wider easement, were obsolete and as such, the Court on March 19, 2007 removed the easement with a new 2.0 metre easement to be located in the setback along the west property line.

As a result of the Court's decision, a new easement, along with a new Explanatory Plan showing a 2.0-metre wide easement along the western property line, are currently being prepared. The proposed landscaping plan for the subject site shows a meandering 1.5 metre (5 foot) wide concrete walkway along the west side of the site. The sidewalk will be bordered on both sides by low landscaping.

Financing

The applicant has provided a letter from his financing company, Canada ICI Capital Corporation, indicating that construction financing for the project has been secured.

CONCLUSION

Market conditions have prevented the developer from proceeding with the second phase of the Odyssey project until now. While the developer is proposing some modifications in terms of density and design from the originally approved 66-unit, 13-storey building, the proposed 27-storey residential tower supports densification and urbanization objectives for City Centre and is in keeping with other recently approved and in-stream residential projects in this area. Together with the changing land use context, present market conditions and construction costs have made the proposed project economically feasible. These conditions have allowed the developer to secure construction financing for this project. By increasing the allowable density, a concrete high-rise tower has become feasible. By allowing a taller building, the current tower is substantially thinner and smaller in floor plate than the existing Odyssey tower. This has allowed for ground plane/open space, as well as enhancing view corridors. In terms of the easement issue, the Court has recently ruled that the existing easement may be removed and replaced with a new 2.0 metre easement to be located in the setback along the west property line.

It is recommended that Council consider Third Reading of Zoning By-law No. 16304.

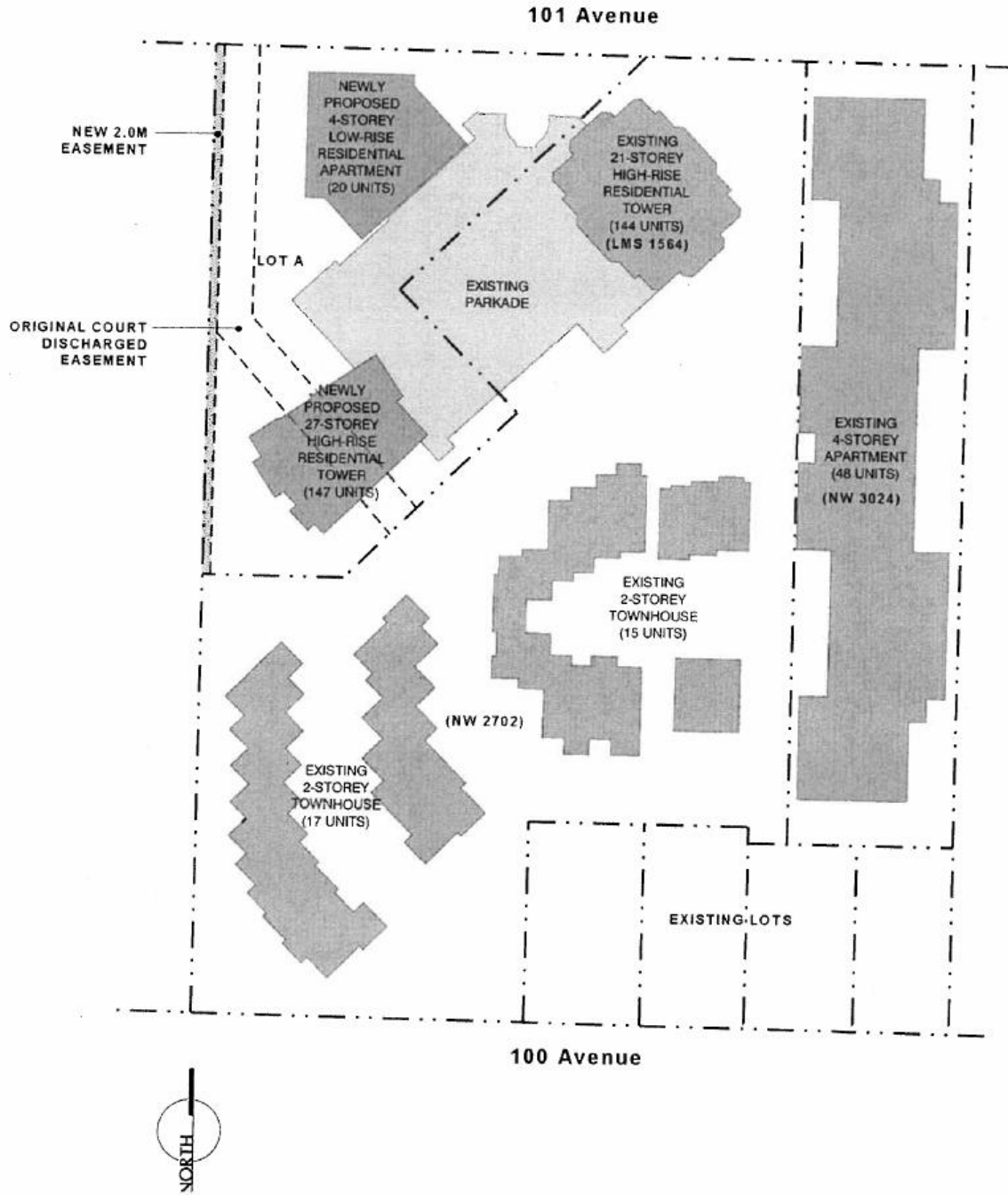
How Yin Leung
Acting General Manager
Planning and Development

GAG/kms/saw

Attachment:

Appendix I Site Plan

v:\wp-docs\planning\07data\jan-march\03281621.gag.doc
S 7/14/10 9:55 AM



13852 101 Street, Surrey, BC



e-Atelier
architecture inc.

Suite 109-111 West Street | (604) 502-8689
Vancouver, B.C. | (779) 304-202-8689
V8B 4M1 | info@e-atelier.com | 07.03.09

BRIGHTON PLACE