

Schedule A

Notice of Appeal

To: The Secretary
Board of Variance/Parking Variance Board
Vancouver City Hall
453 West 12th Avenue
Vancouver, B.C. V5Y 1V4
(604) 873-7723

I/We file an Appeal to the Board of Variance/Parking Variance Board.

The Property

Address: 105 Keefer Street and 544 Columbia Street, Vancouver, B.C.
Legal Description: Lot 1 Block A DL 196 and 2037 Plan 7362 - PID 010650377 and
Lot 2 Block A DL 196 and 2037 Plan 7362 - PID 010650407

Type of Appeal

BOARD OF VARIANCE

Appeal for Variance

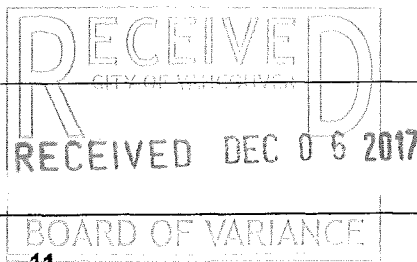
<input checked="" type="checkbox"/> <i>Vancouver Charter, Section 573(1)(b)</i>	Zoning and Development By-law, Section(s): <u>565A</u>
<input type="checkbox"/> <i>Vancouver Charter, Section 573(1)(f)(ii)</i>	Sign By-law, Section(s): _____
	Private Property Tree By-law, Section(s): _____

(See attached Vancouver Charter Provisions)

Appeal of Decision

<input type="checkbox"/> Decision of Director of Planning <i>Vancouver Charter, Section 573(1)(a)</i>	Development Application No. _____
<input checked="" type="checkbox"/> Decision of Development Permit Board <i>Vancouver Charter, Section 573(1)(e)</i>	<input type="checkbox"/> Appealing refusal
<input type="checkbox"/> Refusal of Tree Cutting/Removal Permit <i>Vancouver Charter, Section 573(1)(f)(i)</i>	<input type="checkbox"/> Appealing approval
	<input type="checkbox"/> Appealing condition(s) of approval
	Development Application No. <u>DP2017-0681</u>
	<input checked="" type="checkbox"/> Appealing refusal
	<input type="checkbox"/> Appealing approval
	<input type="checkbox"/> Appealing condition(s) of approval

(See attached Vancouver Charter Provisions)



Appendix D

Non-Conformity

- Extension of Discontinued Non-conforming Use
Vancouver Charter, Section 573(1)(c), Section 568(3)

- Additions/Structural Alterations to Non-conforming Building
Vancouver Charter, Section 573(1)(d), Section 568(4)(a)

- Fire Damaged Non-conforming Building
Vancouver Charter, Section 573(1)(d), Section 568(5)(a)

(See attached Vancouver Charter Provisions)

PARKING VARIANCE BOARD

- Decision of Director of Planning
Building Board of Appeal By-law, Section 7.3
- Parking By-law Section(s): _____

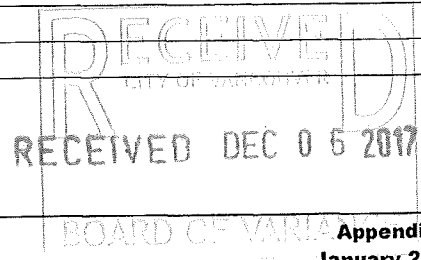
(See attached Vancouver Charter Provisions)

This Appeal is based on the following grounds (please print or type, attaching additional pages if required): SEE ATTACHED

NOTE: You must state all grounds of appeal that you intend to raise at the hearing of the appeal. Introducing new grounds of appeal at the hearing may result in an adjournment of the hearing by the board.

The following material is attached and made part of this Appeal:

Letter to Board of Variance dated December 6, 2017 attached hereto

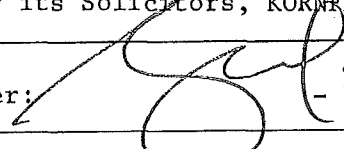


NOTE: All written material you intend to submit to the board of variance must be attached to this notice of appeal. You may produce other supporting materials, including photographs, plans or diagrams at the appeal hearing.

I/WE declare that the statements contained in this Notice of Appeal and all attachments are, to the best of my/our belief, true and correct in all respects.

I/WE acknowledge that this Notice of Appeal and all attachments are available to the public.

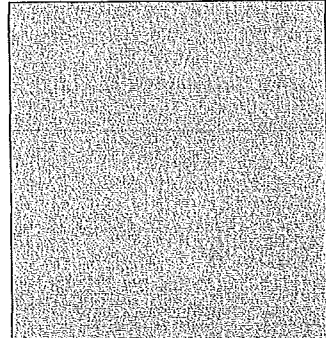
Signature(s) of Appellants: BEEDIE (KEEFER STREET) HOLDINGS LTD.
by its Solicitors, KORNFELD LLP

per:  - NEIL KORNFELD

Name(s) of Appellant(s) (please print): BEEDIE (KEEFER STREET) HOLDINGS LTD.

Name of Company (if applicable): _____

Mailing Address: c/o KORNFELD LLP
1100 - 505 Burrard Street
Vancouver, BC V7X 1M5
Attention: Neil Kornfeld
Telephone: 604-331-8301
Fax: 604-683-0570
Email: NKORNFELD@KORNFELDLLP.COM



RECEIVED DEC 06 2017

(To be completed by staff)		Date: _____
<u>735221</u>	<u>INVOICE # 22491</u>	<u>LOUIS NG</u>
Appeal Number	Receipt Number (PAYMENT TO FOLLOW)	Signature

RECEIVED
CITY OF VANCOUVER
RECEIVED DEC 06 2017
BOARD OF VARIANCE

Board of Variance – Notice of Appeal

December 6, 2017

Board of Variance
City of Vancouver
423 West 12th Avenue
Vancouver, B.C. V5Y 1V4

Property address

105 Keefer Street & 544 Columbia Street, Vancouver, B.C.

Legal description of property

Lot 1 Block A District Lots 196 and 2037 Plan 7362

Lot 2 Block A District Lots 196 and 2037 Plan 7362

Dimensions and area of the site

149 feet by 121 feet

Zoning of the site

HA-1A, Chinatown Zoning Bylaw

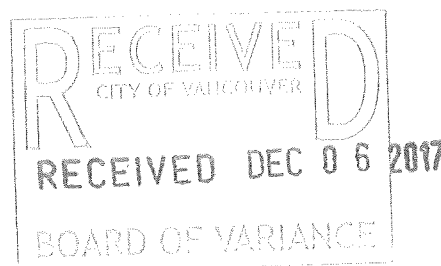
Outline of decision or aspect being appealed

The refusal by the Development Permit Board on November 6th, 2017 to approve DP-2017-00681 – HA-1A for 105 Keefer Street and its accompanying staff conditions. The appeal is to reverse the decision made by the Development Permit Board (the "DP Board" or the "Board") refusing this application.

Description of the grounds upon which the appeal is based, including any hardship.

The DP Board refused to approve the application on the basis, as per the given reasons of the Board majority, that the proposed development failed to meet the design guidelines of section 4.17 of the HA-1A zoning.

This was the ostensible reason given but decision ignored the fact that the application was supported and recommended by City staff with stated conditions that the applicant had committed to addressing, which would have brought the application to fully align with the limited design test concerns that were raised by the DP Board. All that was required in order to achieve this was for the DP Board to approve the application subject to staff conditions, or with any additional conditions they may have wished to add. To the extent that approval of the application subject to conditions constituted a relaxation of a zoning bylaw, the Development Permit Board failed to grant a relaxation as they were permitted to do and as they do routinely, which has caused and continues to cause the Appellant significant hardship.



The public opposition to the application was at best only tangentially related to design, but instead focussed on use. As the proposed use was in full compliance with applicable zoning, the DP Board had no authority to refuse approval of the application on this basis and accordingly purported to refuse the application on the basis of design, notwithstanding that the Board could have approved the application with conditions that would result in correction of any matters of design as this was already addressed in the recommendations of the City staff and accepted by the applicant. The refusal of the application on the basis of design is not supportable on the evidence and materials before the DP Board.

The Appellant has suffered and continues to suffer undue or unnecessary hardship as a result of the decision of the DP Board. In particular:

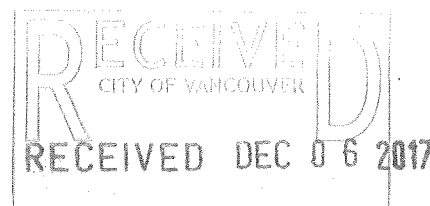
- (a) The DP Board failed to consider the design guidelines in context of the Appellant's site resulting in undue hardship to the Appellant. The Appellants site is relatively unique in the Chinatown District in that it is significantly larger than the majority of sites in the area to which the design guidelines of the zoning bylaw are directed. The DP Board failed to account for the site area and frontage anomaly in its refusal to approve the development permit application or alternatively failed to allow for relaxation of the strict application of the subject zoning bylaw given the particulars of the site.
- (b) The strict application of the provisions of the subject zoning bylaw in the context of the site would impose an unreasonable restraint and unnecessary hardship on the Appellant and the use of the property inconsistent with the general purpose of the bylaw;
- (c) By rejecting the proposal outright, the Appellant has suffered and will continue to suffer significant hardship by reason of the inability of the Appellant to make effective use of the property, monies thrown away in consulting fees and other professional costs as well internal staff costs. Additionally the delay in proceeding with the development has resulted in increased carrying costs and loss of revenue sure to result from the delayed commencement and completion of the development. The applicant has suffered and continues to suffer damage to its reputation in that the Development Permit Board's refusal of the application on the ostensible basis of lack of compliance with design guidelines, when such was not the case, or could have been dealt with by the imposition of conditions on the approval, has lessened the applicants standing in the community. Furthermore, the basis of the decision leaves the applicant without any means of resolving a path forward as to the design for the improvements on the property as the DP Boards reasons and direction for further consultation without direction do not clarify acceptable development on the site. This would have been wholly resolved by the staff conditions accompanying the application.

The allowance of the Appeal will not disrupt the official development plan.

On the hearing of this appeal the Appellant proposes to refer to a history of the development applications for the site and the Development Staff Committee Minutes of Meeting October 18, 2017 and the following:

Notation of the Section(s) of the Vancouver Charter and bylaw(s) under which the appeal is to be considered (where applicable).

The appeal is to be considered under all applicable bylaws and sections of the Vancouver Charter, including:



- HA-1A District Schedule (Chinatown Historic Area) – with specific reference to Section
 - 2 Outright Approval Uses
 - 4.17 External Design
 - 5.1 Relaxation of Regulations
- Chinatown Design Guidelines
- Development Permit Board and Advisory Panel Bylaw No. 5869
- City of Vancouver Corporate Policy – with specific reference to Sections:
 - 1.1
 - 1.6
 - 4.3
 - 4.8
- Vancouver Charter Section 565A
 - D.2 (e)
- Vancouver Charter Section 573

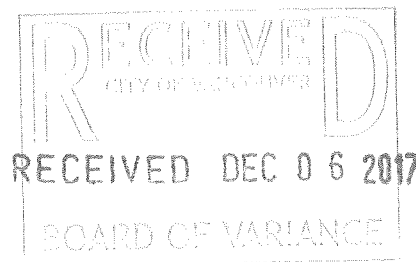
APPELLANT

BEEDIE (KEEFER STREET) HOLDINGS LTD.

By its Solicitors, KORNFIELD LLP

Per:


Neil Kornfeld



November 16, 2017

#300 - 839 Cambie Street
Vancouver, BC V6B 2P4

Dear Greg Borowski DBA: Merrick Architecture:

**RE: 105 KEEFER STREET, Vancouver, BC V6A 1X3
Development Permit Number DP-2017-00681**

Please be advised that the Development Permit Board has Refused DP-2017-00681 on November 6, 2017, for the following reason(s):

- Non-compliance - Regulations; the proposed development does not comply with the regulations of the Zoning and Development By-law that affect the site;
- Non-Compliance - Policies and Guidelines; the proposed development does not satisfactorily comply with the policies or guidelines that affect this site;
- Objections Received; objections have been received from neighbouring property owners;

Yours truly,



Joe Bosnjak
joe.bosnjak@vancouver.ca
(604) 873-7755

JMB/sg

