

SUMMARY AND RECOMMENDATION

3. REZONING: 1070 and 1090 West Pender Street

Summary: To rezone 1070 and 1090 West Pender Street from DD (Downtown) District to CD-1 (Comprehensive Development) District, to permit the development of a 31-storey office building with retail uses at grade. A height of 123.4 m (405 ft.) and a floor space ratio (FSR) of 18.22 are proposed.

Applicant: Musson Cattell Mackey Partnership

Referral: This item was referred to Public Hearing at the Regular Council Meeting of February 3, 2015.

Recommended Approval: By the General Manager of Planning and Development Services, subject to the following conditions as proposed for adoption by resolution of Council:

A. THAT the application by Musson Cattell Mackey Partnership to rezone:

- (i) 1070 West Pender Street [*PID: 024-551-945, Lot 1, Block 2, District Lot 185, Group 1, New Westminster District Plan LMP42705*] on behalf of Bentall Kennedy Prime Canadian Property Fund Ltd., and
- (ii) 1090 West Pender Street [*PID: 004-920-392, Lot 10, Block 2, District Lot 185, Plan 92*] on behalf of 1090 Pender Properties Ltd.,

from Downtown District (DD) to a Comprehensive Development (CD-1) District, to increase the floor space ratio from 11.0 to 18.22 (with the proviso that these lands will not be developed to a floor space ratio greater than 17.5) to allow for the construction of a 52,222 m² (562,135 sq. ft.) 31-storey office building, with retail uses at grade, generally as presented in Appendix A of the Policy Report dated January 22, 2015, entitled "CD-1 Rezoning - 1070 and 1090 West Pender Street", be approved subject to the following conditions:

CONDITIONS OF APPROVAL OF FORM OF DEVELOPMENT

- (a) That the proposed form of development be approved by Council in principle, generally as prepared by Musson Cattell Mackey Partnership, and stamped "Received City Planning Department, November 27, 2013", provided that the General Manager of Planning and Development Services may allow minor alterations to this form of development when approving the detailed scheme of development as outlined in (b) below.
- (b) That, prior to approval by Council of the form of development, the applicant shall obtain approval of a development application by the Director of Planning, who shall have particular regard to the following:

Urban Design

1. Design development to improve the frontage along Eveleigh Street for safe pedestrian movement.

Note to Applicant: This can be accomplished by providing a continuous sidewalk on the site and setting the building back at street level across the south side of the development.

2. Design development to improve the passive design of the building.

Note to Applicant: Consider revising the north and south facades to have visibly different responses to the different solar exposures. Additional envelope measures such as triple glazing may be required to meet ASHRAE or other energy targets.

3. Design development to the canopy and other base elements to bring more light to the ground plane and open up views past the building.
4. Design development to the ground level facades to add pedestrian scaled interest and detail.

Landscape

5. Provision of a double row of street trees to the Thurlow Street frontage.

Note to Applicant: See also Engineering condition (c)6(e). The second row of street trees should be on private property.

6. Design development to increase the area dedicated to urban agriculture on the fourth floor amenity deck.

Crime Prevention Through Environmental Design (CPTED)

7. Design development to respond to CPTED principles, having particular regards for:
 - (i) theft in the underground parking;
 - (ii) residential break and enter;
 - (iii) mail theft; and
 - (iv) mischief in alcove and vandalism, such as graffiti.

Note to Applicant: Building features proposed in response to this condition should be noted on the plans and elevations. Consider use of a legend or key to features on the drawings.

Sustainability

8. Identification on the plans and elevations of the built elements contributing to the building's sustainability performance as required by the Green Buildings Policy for Rezoning.

Note to Applicant: Provide a LEED® checklist confirming the above and a detailed written description of how the LEED® points have been

achieved with reference to specific building features in the development, and notation of the features on the plans and elevations. The checklist and description should be incorporated into the drawing set. Registration and application for certification of the project is also required under the policy.

Heritage

9. Design development to re-use the existing pre-cast patterned concrete panels on site, noting the applicant has indicated the cladding can be salvaged for interpretive and commemorative purposes.

Engineering

10. Clarification that the building is shown encroaching slightly over the south property line on pages A103 and A205 to A217. Delete any encroaching portions.
11. Confirm that there is adequate clearance between parking levels P2-7 (Drawing Nos. A201-202) and the rapid transit tunnel structure which traverses the site. Confirmation from the appropriate Transit authorities that the parkade provides adequate clearances is required. Charge 146806L, which required written approval of any development plans by former owner CP Rail, may now require approval from current owner BC Transit.
12. Provision for a recessed or relocated entry to the mechanical room on Eveleigh Street such that the door does not swing over the property line.
13. Delete referenced building grades shown on several plans; they are not City issued building grades. Please show the grades issued on City Engineering building grade plans "BG120153 and BG130013".
14. Features such as stairs, planters and other grade differences on Thurlow Street frontage are to be adjusted to provide for the widened sidewalk resulting in a consistent sidewalk elevation along this frontage of the site for the width of the SRW area.
15. A canopy application is required.
16. A crossing application is required.
17. Compliance with the Parking and Loading Design Supplement to the satisfaction of the General Manager of Engineering Services.

Note to Applicant: The following items are required to meet provisions of the Parking By-law and the parking and loading design supplement:

- (i) Provision of an increased parking ramp width to achieve a minimum 23 ft. width through the curved section near the entrance.
- (ii) Provision of a more detailed design of the loading area.

- a) Additional dimensioning of loading spaces and area surrounding.
 - b) Design elevations within the loading area and adjacent corridors to determine slopes and crossfalls.
 - c) Details of the garbage storage and recycling space to be provided. Please refer to the Garbage and Recycling Storage Facility Supplement available on the City's public website.
http://vancouver.ca/files/cov/Garbage_and_Recycling_Storage_Facility_Supplement.pdf
- (iii) Provision of internal access to all commercial retail units without requiring the use of stairs. There does not appear to be access to the commercial retail units along the Thurlow Street frontage of the site.
- (iv) Clearly identify the location of required Class A loading spaces.

Note to Applicant: The Transportation Study (page 11 of Appendix 5) indicates that the Class A spaces will be on level P1, but the Level P1 Floor Plan (drawing A203) does not identify any loading spaces.

Note to Applicant: An interconnected water service will be required for this development.

Sustainable Large Developments Policy

18. Provision of a Green Mobility and Clean Vehicles Strategy that includes the requisite infrastructure where appropriate to prioritize sustainable transportation modes including walking, cycling, public transit, and provisions for low carbon vehicles (e.g., electric vehicles), completed to the satisfaction of the General Manager of Engineering Services, and prior to Development Permit issuance the completion of any legal agreements required by this Strategy on terms and conditions acceptable to the City.
19. Provision of a Sustainable Rainwater Management Plan that utilizes sustainable strategies to allow for infiltration, retention, treatment and utilization of rainwater where applicable and appropriate on site.
20. Provision of a Solid Waste Diversion Strategy that addresses waste diversion in all solid waste generating activities within the complex.

Note to Applicant: The Strategy must identify/provide space, infrastructure and an operational approach to divert organics and recyclables from the waste stream, and minimize the vehicle trips required for collection, to the satisfaction of the General Manager of Engineering Services, and prior to Development Permit issuance the completion of any agreements required by this Strategy on terms and conditions acceptable to the General Manager of Engineering Services and the Director of Legal Services.

21. Provision of an Access to Nature Plan demonstrating how the project will contribute to improving access to nature as described in the Rezoning Policy for Sustainable Large Developments, to the satisfaction of the Manager of Park Planning and Research.

Note to Applicant: The application provides landscape plans describing tree planting and provision of public and private open spaces. The following comments outline ways to strengthen the submission so requirements are met.

Trees: Provide number of trees to be planted and identify species, spacing, and soil volumes. Consider maximizing soil volume and tree canopy where possible. Consider street tree planting along West Pender, or an in lieu contribution to street tree planting in another downtown location if this site does not allow for additional street trees.

Habitat: Provide all tree and plant species planned. Consider plant design and species selection that supports pollinators, as well as pollinator support structures like mason bee lodges, apiaries, and others.

22. Provision of a Sustainable Food System Plan to include a minimum of three food systems assets as described in the *Rezoning Policy for Sustainable Large Developments*, to the satisfaction of the Director of Social Policy.

Note to Applicant: The application identifies food assets that can count towards the required three food assets that must be delivered as part of the development. The three identified food assets are: (1) community gardens/community orchards; (2) edible landscaping; and (3) community kitchen. The following comments outline ways to strengthen the submission so requirements are met.

Community gardens/community orchards:

- Increase the number of community garden plots (“Urban Agriculture Planters”) on the Amenity Deck from 10 plots to 20 plots in order to increase opportunities for tenants of the building to take part in food growing. Consider installing the additional 10 plots in the space currently designated for “Open Lawn/Yoga Space” to create a stronger urban agricultural presence on the Amenity Deck.
- Provide a landscape plan for the garden in accordance with the Urban Agriculture Design Guidelines for the Private Realm (<http://vancouver.ca/files/cov/urban-agriculture-guidelines.pdf>). Please note that this includes hose bibs, a potting bench, tool storage area and compost bins. Given the location of the garden plots on a rooftop, sun and shading should be considered, and wind protection barriers should be installed.
- In constructing raised bed community garden plots, ensure that Community Gardens Accessibility Guidelines are met (<http://vancouver.ca/files/cov/Community-Gardens->

[AccessibilityGuidelines-2011.pdf](#)). Please note that at least 5% of plots should be accessible raised beds; 10-20% is ideal.

Edible landscaping:

- In order to enhance the urban agricultural component of the Amenity Deck and create a stronger urban agricultural presence, incorporate fruit or nut-bearing trees or shrubs in the “Planting Area” (#10) of the Amenity Deck. This can also be considered as part of the “Tree Bosques” (#3) on the Corporate Roof.
- Consider plant design and species selection that supports pollinators, as referenced in “Access to Nature” section.
- The Urban Agriculture Design Guidelines for the Private Realm are applicable to this site (see above). As such, the Applicant should ensure that design and stewardship requirements for edible landscaping are met.

Community kitchen:

- The rezoning package shows a community kitchen on the corporate roof, however a community kitchen does not appear to be present. The City of Vancouver understands community kitchen as “a public facility where people have the opportunity to come together to share the cost, planning and preparation of healthy meals” (see p. 89 of Vancouver Food Strategy <http://vancouver.ca/files/cov/vancouver-food-strategyfinal.PDF>). If a community kitchen that adheres to this description is not feasible in the current submission, the Applicant should be aware that, in lieu of a third required food asset, the City may also consider a contribution to citywide food infrastructure that supports a just and sustainable food system. This may include food processing, storage or distribution infrastructure.

Additional comments:

- Consider food waste reduction strategies as part of Zero Waste Planning requirements of Sustainable Large Developments Policy.

23. To meet the requirements of the *Rezoning Policy for Sustainable Large Developments* pertaining to Low Carbon Energy Supply:

- (i) The proposed approach to site heating and cooling, developed in collaboration with the City and the City's designated NES utility provider, shall be provided in detail prior to the issuance of any development permit, to the satisfaction of the General Manager of Engineering Services.
- (ii) The building(s) heating and domestic hot water system shall be designed to be easily connectable and compatible with a neighbourhood energy system, as selected by the General Manager of Engineering Services, for the supply of all heating and domestic hot water requirements that are not provided through heat recovery and reuse internal to the development.

The development shall adhere to the City's Neighbourhood Energy Connectivity Standards - Design Guidelines, and shall connect to and receive heat energy from a centralized thermal energy centre (or mechanical room) within the development, at a mutually agreed upon location, unless otherwise approved by the General Manager of Engineering Services. Design provisions related to neighbourhood energy compatibility must be to the satisfaction of the General Manager of Engineering Services.

Note to Applicant: At the building permit stage, the applicant will be required to submit final detailed drawings for review, and a declaration signed by the registered professional of record certifying that the Neighbourhood Energy connectivity requirements have been satisfied. Design shall provide suitable space for the installation of the equipment with adequate provisions for connection to off-site NES distribution piping and communications conduit. Such equipment may include, but is not limited to: a steam to hot water converter station (approximately 93 m²), energy transfer station, and/or temporary boiler equipment.

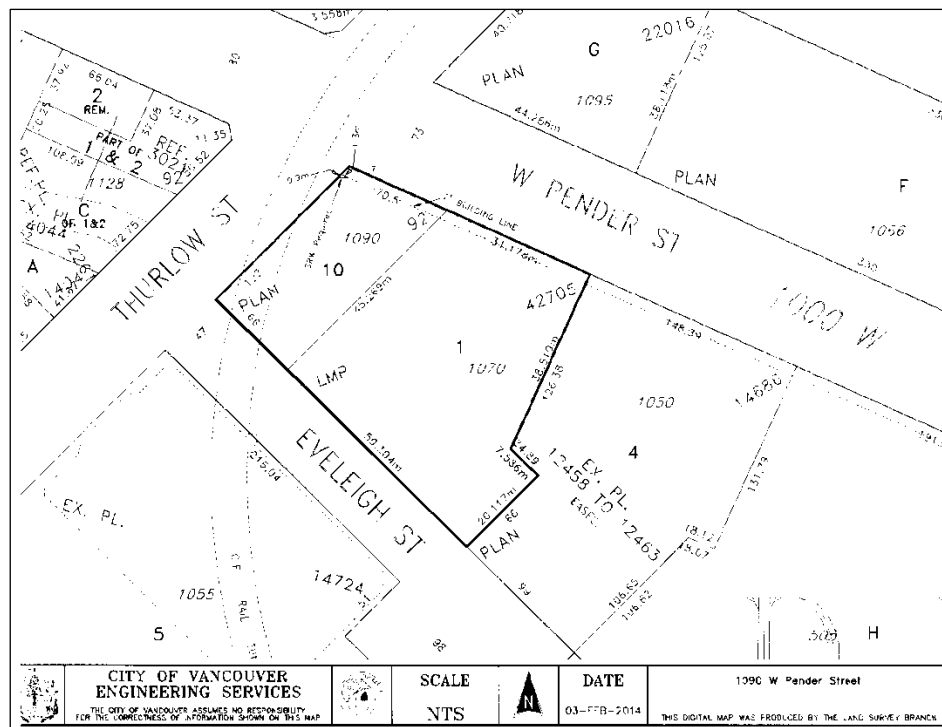
- (iii) On-site energy works, including all equipment and infrastructure associated with the generation, transfer, and distribution of thermal energy to buildings within the development (i.e. heat generating/transfer/recovery equipment, thermal energy distribution piping, and in-building energy transfer stations) shall be designed in conjunction with, and owned by, the City-designated NES utility provider to which the development is connecting.
- (iv) Where the integration of the development into a City-designated NES is deemed unfeasible or inappropriate by the General Manager of Engineering Services at the time of development permit, the approach to site heating and cooling shall incorporate a development-scale low carbon energy system that reduces the development's greenhouse gas emissions at build-out by a minimum of 50% relative to a business as usual ("BAU") approach to heating and cooling.
- (v) Any on- or off-site low carbon energy supply system serving the development, where applicable, shall be designed in such a way as to enable energy metering and the monitoring of performance metrics during system operation for the purpose of optimizing system performance and preparing system performance reports. The applicant shall refer to the Performance Monitoring and Reporting Requirements for Renewable Energy Systems for a summary of minimum requirements. The applicant will be required to demonstrate compliance with these requirements prior to issuance of building permit.
- (vi) No heat producing fireplaces, electric resistance heat, or distributed gas-fired make-up air heaters shall be installed within any building.

CONDITIONS OF BY-LAW ENACTMENT

- (c) That, prior to enactment of the CD-1 By-law, the registered owner shall on terms and conditions satisfactory to the Director of Legal Services and to the General Manager of Planning and Development Services, the Managing Director of Social Development, the General Manager of Engineering Services, the Managing Director of Cultural Services and Approving Officer, as necessary, and at the sole cost and expense of the owner/developer, make arrangements for the following:

Engineering

1. Consolidation of Lot 1, Plan LMP42705, and Lot 10, Plan 92; both of Block 2, DL 185 to create a single parcel and subdivision of that site to result in the dedication of the north 7 ft. (the building line area) for road purposes.
2. Provision of a surface Statutory Right of Way corner-cut in the northwest corner of the site measured easterly along the building line a distance of 1.3 m from the west property line, and a distance of 0.9 m measured southerly along the west property line from the building line (see plan below).



3. Provision of building setback and a surface statutory right of way on the Thurlow Street frontage for pedestrian purposes (widened public sidewalk) to achieve a 5.5.m distance from the back of the City curb to the building face. A legal survey of the existing dimension from the back of the City curb to the existing property line is required to determine the final setback/SRW dimension.

Note to Applicant: The dimensions noted in bullet #2 (SRW corner cut) may be adjusted to reflect the overlap of the Thurlow SRW over the proposed SRW corner cut.

4. Deletion of the portions of the large swooping architectural feature wrapping 3 sides of the building which are shown extending out beyond the ultimate north property line; or make arrangements (encroachment agreements) to the satisfaction of the General Manager of Engineering Services and the Director of Legal Services.

Note to Applicant: An application to the City Surveyor is required for any encroachments. The applicant should be advised that building encroachments onto City street will cause problems if strata titling a property, due to Section 244 (1)(f) of the Strata Property Act. In such cases the City may not necessarily support the provision of easements for any part of the building on City Street. If strata titling is proposed, the applicant is advised to seek independent legal advice on the matter.

5. Release of Easement & Indemnity Agreements 523533M & 31931 (commercial crossings) prior to building occupancy.

Note to Applicant: Arrangements are to be secured prior to zoning enactment, with release to occur prior to issuance of an occupancy permit for the site. Provision of a letter of commitment will satisfactorily address this condition.

6. Provision of a Services Agreement to detail the on and off-site works and services necessary or incidental to the servicing of the site (collectively called the "services") such that they are designed, constructed and installed at no cost to the City and all necessary street dedications and rights of way for the services are provided. No development permit for the site will be issued until the security for the services are provided.
 - (i) Provision of adequate water service to meet the fire flow demands of the project. The current application lacks the details to determine if water main upgrading is required. Please supply project details including projected fire flow demands as determined by the applicants' mechanical consultant to determine if water system upgrading is required. Should upgrading be necessary then arrangements to the satisfaction of the General Manager of Engineering Services and the Director of Legal Services will be required to secure payment for the upgrading. The developer is responsible for 100% of any water system upgrading that may be required.
 - (ii) Provision of an upgraded sanitary sewer main on West Pender Street from Thurlow Street to the manhole west of Thurlow Street is required (approximately 375 ft. to the west of Thurlow Street). The preliminary estimate for this work is \$500,000.00.
 - (iii) Upgrading of the street lighting at the intersection of Thurlow Street and West Pender Street to LED standards.

- (iv) Provision of new sidewalks adjacent the site to current commercial standards, 4 ft. exposed aggregate front filler walks where space permits and broomed finished sidewalks with sawcut joints for the balance. Deletion of the proposed special paving where it encroaches onto public property.
 - (v) Provision of street trees adjacent the site where space permits.
 - (vi) Provision of new curb ramps and curb returns to current standards at the intersections of Pender Street and Thurlow Street and at Eveleigh Street and Thurlow Street.
 - (vii) Consideration of removal of the wood hydro poles on Thurlow Street adjacent the site with the provision of on-site space to accommodate any kiosks or cabinets made necessary by the removal of the wood poles. Confirmation from all of the affected utility companies and any City of Vancouver branches impacted is required.
7. Provision of all utility services to be underground from the closest existing suitable service point. All electrical services to the site must be primary with all electrical plant, which include but are not limited to, junction boxes, switchgear, pad mounted transformers and kiosks (including non BC Hydro Kiosks) are to be located on private property with no reliance on public property for placement of these features. There will be no reliance on secondary voltage from the existing overhead electrical network on the street right-of-way. Any alterations to the existing overhead/underground utility network to accommodate this development will require approval by the Utilities Management Branch. The applicant may be required to show details of how the site will be provided with all services being underground.
8. Enter into such agreements as the General Manager of Engineering Services and the Director of Legal Services determine are necessary for securing the low carbon energy requirements of the development, which may include but are not limited to agreements which:
- (i) Require that all buildings within the development receive thermal energy from a low carbon energy system, either on-site through the implementation of a development-scale low carbon energy solution, or off-site through connection to the City-designated Neighbourhood Energy System (NES), whichever is deemed most appropriate by the General Manager of Engineering Services prior to release of development permit;
 - (ii) Require provision of a minimum 93 m² suitable site on the rezoning site to be utilized for a steam to hot water converter station and any associated equipment;
 - (iii) Grant the City-designated NES utility provider access to all buildings, parkades, utility corridors, equipment and infrastructure associated with the thermal energy system for the development for the purpose of installing, operating, and/or maintaining NES services, if applicable;

- (iv) Require that the development's thermal energy system, including all equipment and infrastructure associated with the generation, transfer, and distribution of thermal energy within the development be developed, owned and operated by the City-designated NES utility provider, or transferred (at a cost that represents the developer's direct costs associated with developing the thermal energy system, approvable by the BCUC) to the City-designed NES utility provider at such time that one becomes available, if applicable;
- (v) Require the developer to undertake performance monitoring of the thermal energy system for the development on a reporting schedule, containing information, and prepared in a form as requested by the General Manager of Engineering Services; and
- (vi) Require that responsibility for the operation and maintenance of the development-scale low carbon energy system, if applicable, be assigned to an appropriate party prior to occupancy.

Note to Applicant: The applicant is prohibited from entering into any energy supply contract for thermal energy services without prior approved from the General Manager of Engineering Services.

Development Limit Covenant

- 9. Register a Section 219 Covenant against the consolidated lands which limits the floor space ratio to 17.5 and that the additional density authorized by the CD-1 By-law represents the density previously transferred to 1050 West Pender Street and may not be used on the consolidated lands.

Public Art

- 10. Execute an agreement satisfactory to the Directors of Legal Services and Cultural Services for the provision of public art in accordance with the City's Public Art Policy, such agreement to provide for security in a form and amount satisfactory to the aforesaid officials; and provide development details to the satisfaction of the Public Art Program Manager (a checklist will be provided).

Note to Applicant: Please contact Bryan Newson, Program Manager, 604.871.6002, to discuss your application.

Soils

- 11. If applicable:
 - (i) Submit a site profile to the Environmental Planning, Real Estate and Facilities Management (Environmental Contamination Team);
 - (ii) As required by the Manager of Environmental Planning and the Director of Legal Services in their discretion, do all things and/or

enter into such agreements deemed necessary to fulfill the requirements of Section 571(B) of the Vancouver Charter; and

- (iii) If required by the Manager of Environmental Planning and the Director of Legal Services in their discretion, enter into a remediation agreement for the remediation of the site and any contaminants which have migrated from the site on terms and conditions satisfactory to the Manager of Environmental Planning, the General Manager of Engineering Services and the Director of Legal Services, including a Section 219 Covenant that there will be no occupancy of any buildings or improvements on the site constructed pursuant to this rezoning until a Certificate of Compliance satisfactory to the City for the on-site and off-site contamination, issued by the Ministry of Environment, has been provided to the City.

Community Amenity Contribution (CAC)

- 12. Deliver, prior to enactment of the rezoning by-law, the Community Amenity Contribution of \$2,000,000 to be used by the City to fund a childcare facility or facilities within the downtown area.

Note: Where the Director of Legal Services deems appropriate, the preceding agreements are to be drawn, not only as personal covenants of the property owners, but also as Covenants pursuant to Section 219 of the Land Title Act.

The preceding agreements are to be registered in the appropriate Land Title Office, with priority over such other liens, charges and encumbrances affecting the subject sites as is considered advisable by the Director of Legal Services, and otherwise to the satisfaction of the Director of Legal Services prior to enactment of the by-laws.

The preceding agreements shall provide security to the City including indemnities, warranties, equitable charges, letters of credit and withholding of permits, as deemed necessary by and in a form satisfactory to the Director of Legal Services. The timing of all required payments, if any, shall be determined by the appropriate City official having responsibility for each particular agreement, who may consult other City officials and City Council.

- B. THAT the application to amend Schedule E of the Sign By-law to establish regulations for this CD-1 in accordance with Schedule "B" to the Sign By-law [assigned Schedule "B" (DD)], generally as set out in Appendix C of the Policy Report dated January 22, 2015, entitled "CD-1 Rezoning - 1070 and 1090 West Pender Street", be approved.
- C. THAT, subject to enactment of the CD-1 By-law, the Director of Legal Services be instructed to bring forward the amendment to Schedule A of the Noise Control By-law, generally as presented in Appendix C of the Policy Report dated January 22, 2015, entitled "CD-1 Rezoning - 1070 and 1090 West Pender Street".
- D. THAT, subject to enactment of the CD-1 By-law, the Director of Legal Services be instructed to bring forward the amendment to Schedule C of the Parking By-law, generally as set out in Appendix C of the Policy Report dated January 22, 2015, entitled "CD-1 Rezoning - 1070 and 1090 West Pender Street".

- E. THAT Recommendations A through D be adopted on the following conditions:
- (i) THAT the passage of the above resolutions creates no legal rights for the applicant or any other person, or obligation on the part of the City; any expenditure of funds or incurring of costs is at the risk of the person making the expenditure or incurring the cost;
 - (ii) THAT any approval that may be granted following the Public Hearing shall not obligate the City to enact a bylaw rezoning the property, and any costs incurred in fulfilling requirements imposed as a condition of rezoning are at the risk of the property owner; and
 - (iii) THAT the City and all its officials, including the Approving Officer, shall not in any way be limited or directed in the exercise of their authority or discretion, regardless of when they are called upon to exercise such authority or discretion.

[RZ - 1070 and 1090 West Pender Street]