



ADMINISTRATIVE REPORT

Report Date: September 26, 2013
Contact: Al Zacharias
Contact No.: 604.873.7214
RTS No.: 10299
VanRIMS No.: 08-2000-20
Meeting Date: December 17, 2013

TO: Vancouver City Council

FROM: The General Manager of Engineering Services in Consultation with the Director of Legal Services and the Director of Real Estate Services

SUBJECT: 400 SW Marine Drive (Marine Gateway) - Lease of a Volumetric Portion of Cambie Street

RECOMMENDATION

- A. THAT Council close, stop-up, and authorize the Director of Real Estate Services to enter into a lease for that volumetric portion of Cambie Street (the "Lease Premises") with 8440 Cambie Nominee Corp., Inc. No. BC0790134 ("PCI"), (the "Lessee"), as shown generally within bold outline and illustrated isometrically on the plan attached hereto as Appendix "B", to contain the Commercial Retail Unit ("CRU") and building access space proposed to be constructed pursuant to the CD-1 Rezoning for 8440 Cambie Street (Marine Gateway), subject to the terms and conditions as noted in Appendix "A".
- B. THAT a prepaid 99-year lease for the Lease Premises at a value of \$300,000 plus applicable taxes, and payment in lieu of property taxes as applicable, be accepted with proceeds directed to the Property Endowment Fund.
- C. THAT Council authorize the General Manager of Engineering Services to approve minor and inconsequential amendments to the dimensions of the Lease Premises upon provision of legal survey plans and as-built surveys prepared by a British Columbia Land Surveyor.

If Council approves the recommendations as contained in this report, the Formal Resolution to close, stop-up, and lease the volumetric portion of Cambie Street will be before Council later this day for approval.

REPORT SUMMARY

This report seeks Council authority to close, stop-up and enter into a lease for a portion of Cambie Street under the Canada Line with the abutting owner, PCI, for CRU use appurtenant to the Marine Gateway development.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

The authority for stopping up, leasing and disposing of streets and lanes or any part thereof is set out in Sections 289A and 291(b) of the Vancouver Charter.

On February 28, 2012 Council enacted the CD-1 Bylaw for the rezoning of 8440 Cambie Street for a mixed use development comprised of two residential towers and an office tower over a podium with retail space (the “Marine Gateway Rezoning”). The rezoning is subject to a no-occupancy covenant (the “Street Use Clarification Covenant”) which requires that arrangements for the use of City street under the Canada Line Guideway (a lease) be secured prior to occupancy of the development.

Previously Council has approved similar Administrative Reports for leases of volumetric portions of street to permit owners of abutting properties to construct, maintain and use structures in the street, namely:

- 555 Robson Street (Telus Garden) November 1, 2011
- 777 Pacific Boulevard (BC Place) - November 3, 2011
- 520 West Georgia Street (Telus Garden) - March 27, 2012
- 800 Griffiths Way (Rogers Arena) March 12, 2013

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The General Manager of Engineering Services and the General Manager of Real Estate and Facilities Management, recommend approval of the foregoing.

REPORT

Background/Context

Under the Marine Gateway Rezoning and Development Permit (DE415055 - 400 SW Marine Drive) (the “Development Permit”) PCI proposes to construct part of the development on Cambie Street under the Canada Line to provide for an extension of CRU space and a building access corridor as shown generally on the architectural sketches attached as Appendix C (the “Lease Improvements”).

The proposed CRU space and access corridor under the Canada Line were encouraged under rezoning and development conditions as a means to animate and make secure the Cambie Street frontage north of Marine Drive Station. The original design for Marine Drive Station also contemplated use of the under guideway area for active commercial purposes. Construction of the CRU space will include new support columns and exit stairs to accommodate future expansion of the station platform.

Canada Line, including Marine Drive Station, is located partially on Cambie Street and partially on the Marine Gateway development site located on Lot 1 Block 8 District Lot 311 Group 1 New Westminster District Plan BCP49976 (“Lot 1”) owned by PCI. The Vancouver Access Agreement between the City and the South Coast BC Transportation Authority and their subsidiaries (“Translink”) provides for the use of City street by Translink. Various statutory right of way agreements between PCI and Translink provide for the integration of Marine Drive Station and the Marine Gateway development. The CRU space will be managed by and be under the control of PCI in accordance with the terms of the lease agreement.

Translink is supportive of the proposal for re-development of the under Canada Line space and have provided written acknowledgement to the City that they do not object to the grant of a 99 year lease.

Pursuant to the above noted Street Use Clarification Covenant the appropriate lease arrangements (as described in this report) must be in place prior to occupancy of the development and before construction of the Lease Improvements can commence.

Strategic Analysis

The recommendations in this report will authorize the arrangements for the lease and will enable the proposed improvements under the Canada Line to proceed. The addition of the CRU space will contribute to street activation, ambiance and security without detracting from the movement of pedestrians and bicycles. The improvements are supported by Translink and meet the strategic objectives set out in the rezoning and Development Permit requirements.

An Engineering Services review of this matter has concluded that this use of street can be supported subject to the conditions in this report. The Lease Premises will be leased to PCI on the general terms and conditions as set out in Appendix “A”.

Implications/Related Issues/Risk (if applicable)

Financial

Based on the project proforma, the Director of Real Estate Services has determined that a prepaid lease of the Lease Premises of \$300,000 plus applicable taxes and payment in lieu of taxes represents fair market value for the 99 year-year lease. The proceeds will be directed to the Property Endowment Fund.

CONCLUSION

The General Manager of Real Estate Services in consultation with the Director of Real Estate Services recommends approval of the Recommendations contained in this report.

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TERMS AND CONDITIONS

1. That the lease be granted to the abutting owner i.e. the owner of Lot 1 Block 8 District Lot 311 Group 1 New Westminster District Plan BCP49976 (“Lot 1”).
2. The purpose of the lease is to accommodate the development contemplated in the Marine Gateway Rezoning.
3. The term of the lease to commence effectively on the date on which Development Permit DE415055 was issued and end on that date which is the earlier of: the 99th anniversary of the commencement date and the life of any building constructed on Lot 1.
4. The lease to contain a provision such that it may be terminated if the construction of the development on the Lease Premises, as approved under the Development Permit has not been completed within 5 years from the commencement of the lease term.
5. That the Lease Premises be subject to property taxes or payments in lieu of property taxes as if levied to the satisfaction of the Director of Legal Services.
6. Upon completion by the Lessee of the Lease Improvements the Lessee is to provide an as-built survey, prepared by a BC Land Surveyor, to verify that the Lease Improvements are appropriately within the boundaries of the Lease Premises, and if necessary make arrangements to modify them such that they conform to the boundaries of the Lease Premises or make alternative arrangements to provide new Reference Plans and modifications to the lease agreement to the satisfaction of the General Manager of Engineering Services and the DLS.
7. The Lessee is to maintain the Lease Premises to the satisfaction of the General Manager of Engineering Services and the Lease Improvements must be internally drained such that there is no drainage onto the street. The Lessee is responsible to address other nuisances applicable to the Lease Premises such as graffiti, dust, birds, feces, leaves etc.
8. The City will retain right of entry to the Lease Premises at reasonable times for purposes of inspection, construction, maintenance, repair and removal and for maintenance access to the Canada Line. This may result in the registration of an SRW in favour of the City over Lot 1 and the Lease Premises.
9. The Lessee will not erect, paint, display, place, display, affix, or maintain or permit to be erected any sign, decoration, picture, lettering, symbol or notice of any kind whatsoever on the Lease Premises save and except in compliance with the sign guidance approved by the City for the Lease Premises provided that the City Engineer is satisfied that any signage will not interfere with pedestrian and bicycle access adjacent to the Lease Premises.
10. No hazardous or flammable substances are to be stored within the Lease Premises.

11. Upon expiry or termination of the lease the Lessee is responsible for the removal of the Lease Improvements and the restoration of the Lease Premises, at no cost to the City, to the satisfaction of the General Manager of Engineering Services.
12. The Lessee to assume full responsibility for liabilities, loss and damages from their occupancy and use of the Lease Premises and to insure the Leased Premises with insurance policies to the satisfaction of the Director of Risk Management.
13. The Lessee will release the City and City personnel from any and all losses suffered by Lessee resulting from or in connection with the lease including those losses that may arise out of, or relate in any way to the use operation, maintenance, repair, construction or re-construction of, or proximity to, the Canada Line transit system.
14. The Lessee will indemnify the City and City personnel from and against all losses suffered by the City or City personnel that would not have occurred but for the lease arrangements.
15. The lease to contain such other terms and conditions satisfactory to the DLS, Director of Real Estate Services and the General Manager of Engineering Services.
16. Lessee to be responsible for all necessary plans, documents, and Land Title Office fees.
17. Any agreements are to be to the satisfaction of the DLS.
18. The DLS or the Director of Real Estate Services, as applicable, be authorized to execute all plans, transfers, and documents as required.
19. No legal right or obligation shall be created and none shall arise hereafter, until the documents are executed by the parties thereto.

EXPLANATORY PLAN TO ACCOMPANY A VOLUMETRIC LEASE OF A PORTION OF ROAD SHOWN ON REFERENCE PLAN 4968 ADJACENT TO LOT 1 BLOCK B DISTRICT LOT 311 GROUP 1 NEW WESTMINSTER DISTRICT PLAN BCP49976

BCOS 526.025

SCALE 1 : 500 DISTANCES ARE IN METRES
THE INTEGRATED PLAN SCALE OF THIS PLAN IS 500 mm BY 300 mm BY 300 mm PLotted AT A SCALE OF 1:300

INTEGRATED SURVEY AREA No. J1, VANCOUVER, NAD83 (CSRS)

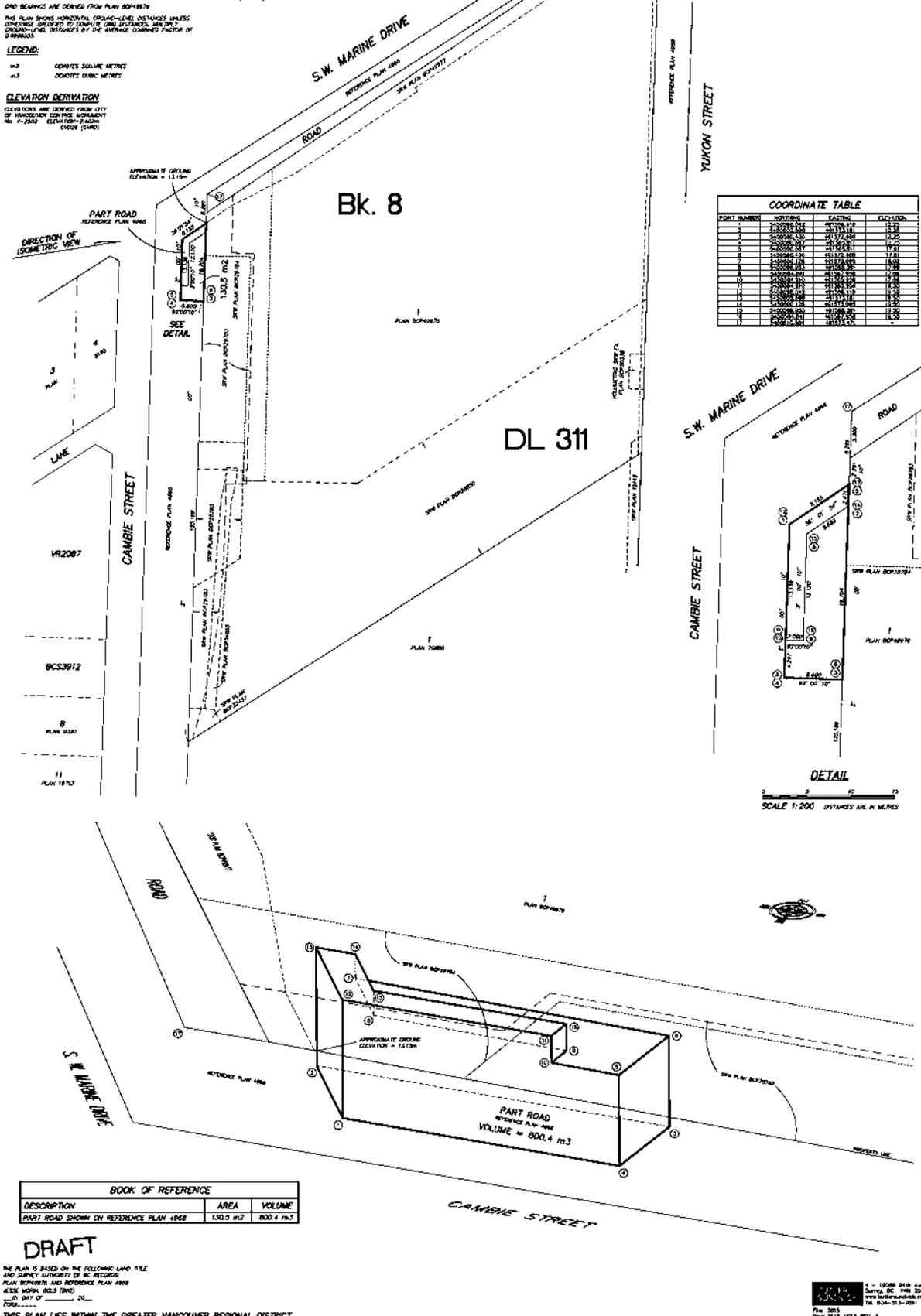
PHD BEARINGS ARE DERIVED FROM PLAN 8048876
THIS PLAN SHOWS HORIZONTAL GROUND-LEVEL DISTANCES UNLESS OTHERWISE SPECIFIED TO DENOTE CURVE DISTANCES AND THE GROUND-LEVEL DISTANCES BY THE AVERAGE CORRECTION FACTOR OF 0.999995

LEGEND:

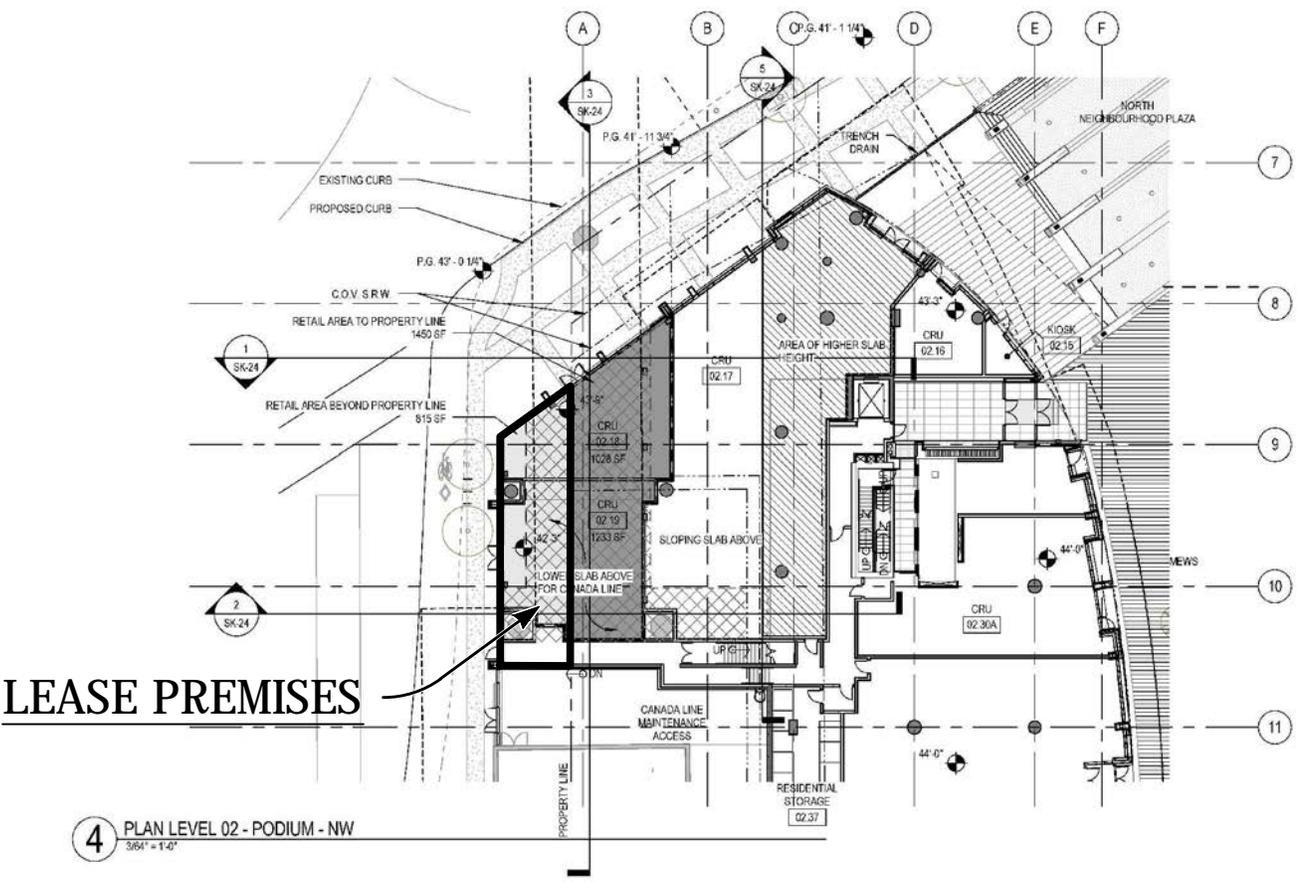
m2 SQUARE METRES
m3 CUBIC METRES

ELEVATION DERIVATION

ELEVATIONS ARE DERIVED FROM CITY OF VANCOUVER CERTIFICATE NO. 11-1-0000 ELEVATION 2.00m CH201 (2480)

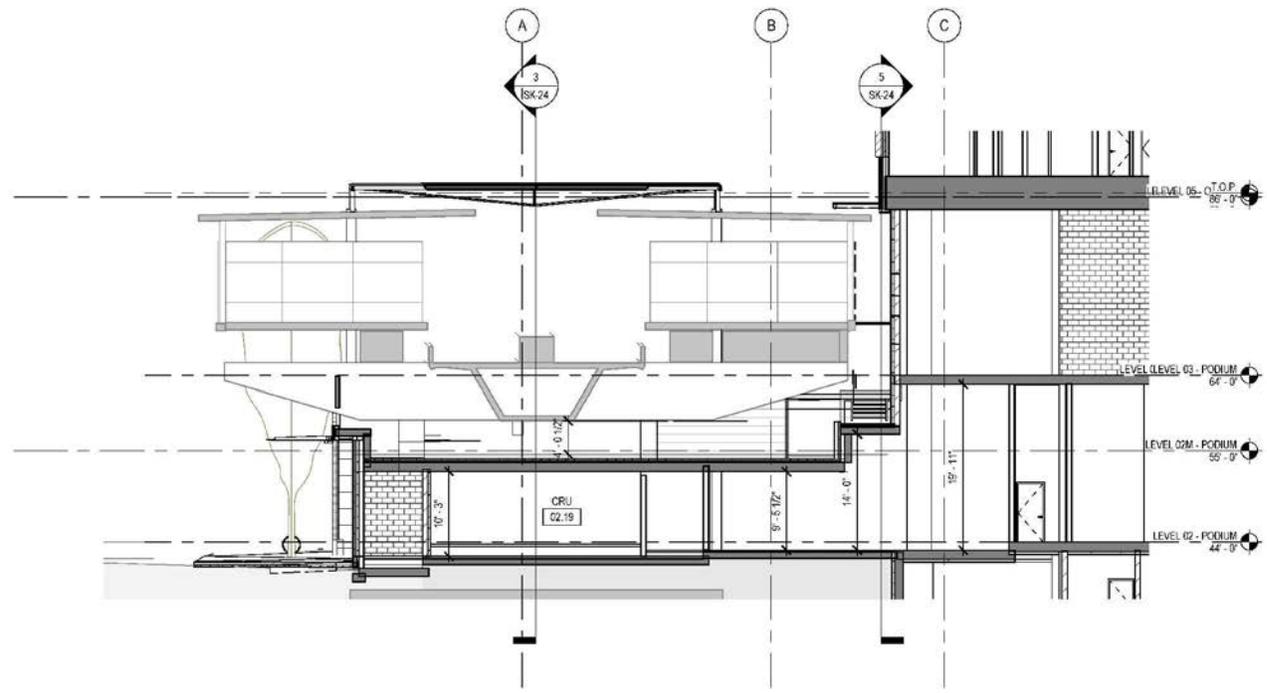


COORDINATE TABLE			
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4	212059.042	261794.111	11.82
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6	212050.054	261794.111	11.80
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216	211106.314	261794.111	9.70
217	211101.820		



LEASE PREMISES

4 PLAN LEVEL 02 - PODIUM - NW
3/64" = 1'-0"



2 SECTION THROUGH CRU 02.17 AND 02.19
3/32" = 1'-0"