

RE: LEASE OF BURNABY LAKE LANDS IN BURNABY LAKE SPORTS COMPLEX  
DEVELOPMENT PLAN AREA  
(ITEM 3, REPORT NO. 17, 1984 MARCH 05)

The two dollar amounts in Section 4.3 on page 154 of this report will be provided to the Municipal Council at the Council meeting.

MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendations of the Director Planning & Building Inspection be adopted.

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TO: MUNICIPAL MANAGER 1984 May 04

FROM: DIRECTOR PLANNING & BUILDING INSPECTION Our File: RZ#25/84

SUBJECT: LEASE OF MUNICIPAL LANDS IN BURNABY LAKE SPORTS COMPLEX DEVELOPMENT PLAN AREA

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RECOMMENDATIONS:

1. THAT the Municipality accept the offer submitted by Burnaby Lake Management Ltd. to enter into a lease agreement as represented in that Company's Land Lease Proposal dated 1984 March 19 as amended.
2. THAT the appropriate registrable lease agreement be drawn and submitted to Council for approval in final form.
3. THAT a licence be granted to enable the prospective Lessee to enter upon that portion of the lands lying north of the sanitary sewer line easement upon satisfaction of the terms set out in Section 4.5 of this report.
4. THAT authority be given for the issuance of Notice to Vacate under the Residential Tenancy Act to the tenants of the Municipally-owned houses within the proposed development site.
5. THAT a copy of this report be sent to Mr. D. Kirk, Burnaby Lake Management Limited, 5723 Mayview Circle, Burnaby, B.C., V5G 4B7.

REPORT

1.0 SUMMARY

A response to the Corporation's proposal to lease land in the Burnaby Lake Sports Complex has been received and assessed by staff. This report outlines the terms of the developer's lease proposal for the land in conjunction with a proposed Family Fitness Park and recommends acceptance with the precise terms to be worked out by the Municipal Solicitor prior to Final approval.

2.0 BACKGROUND

On 1984 03 05, Council authorized staff to advertise 6.24 ha (15.42 acres) of land for lease in the Burnaby Lake Sports Complex Area for the development of a facility with watersports, exercise training, a wave pool, ball courts and related facilities. Advertisements were run in the "Vancouver Sun" and the closing date for lease proposals was 1984 03 23. The proposed lease requirements as outlined in the report approved by Council were made available to the public.

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### 3.0 PROPOSAL RECEIVED

One proposal was submitted in response to the proposal call. This was made by Burnaby Lake Management Limited (Principal, Mr. D. Kirk).

The proposal submitted conforms in most respects to the Municipality's terms as set out in the offer to lease; following discussions with the developer on the areas in which his proposal differed from the terms of the Proposal Call, staff are now in a position to recommend acceptance by Council.

### 4.0 THE LEASE PROPOSAL

Attached to this report is a copy of the Land Lease Proposal submitted by Mr. Kirk.

The terms of the proposal in general satisfy the requirements of the Proposal Call and no additional comment is required on such items.

The following comments are provided however for Council's consideration in connection with those aspects of the offer that vary the terms initially set out.

#### 4.1 LAND LEASE PROPOSAL - SECTION 3.0

##### LEASE RATE:

The Lessee proposes a rental of \$130,000 per year for the first 5 years payable in advance, with provisions for renegotiation and arbitration if necessary for each five-year period thereafter. (The amount for the first 5-year period is higher than the \$125,000 per year upset price, in consideration of the renewal option and the adjustments in responsibility for servicing as outlined below.)

#### 4.2 LAND LEASE PROPOSAL - SECTION 4.0

##### RENEWAL OPTION:

The Proposal Call as approved by Council provided for a 25 year term only; the developer has stated that he requires an additional period for financial investor return reasons. From a planning and land management point of view, this Department prefers the 25 year maximum, but has agreed to support the 25 plus 5 year renewal option in light of the financial considerations involved.

In this regard, the Municipal Solicitor has advised as follows:

"We have carefully analysed the projected income statement provided by Burnaby Lake Management. A 25 year lease period in which to recover the total capital cost may impose some difficulty on the project.

In our view a 25 year lease should be adequate if the developer's projections of income are accurate. However, given the vagaries of the economic climate the additional five year option would reduce the risk and thus allow greater flexibility in financing."

Accordingly, it is being recommended that the proposal for a 25-year lease with a 5-year renewal option be accepted.

4.3 LAND LEASE PROPOSAL - SECTION 6.0

ACCESS AND  
SERVICING:

The terms of the Proposal Call required that the developer be responsible for servicing the site to full Municipal standards. The respondent has proposed adjustments to this requirement that will result in the Municipality participating in certain portions of the required road construction work.

The scope of the servicing works to be done in association with this development is unchanged; however, following discussions with the prospective Lessee, it is being recommended that two portions of the road construction part of the work be completed by the Corporation:

- (a) the construction of the connection of Ardingley Avenue to Norland Avenue to a full finished standard by the Municipality, and
- (b) Municipal cost-sharing in the construction of the portion of Ardingley Avenue north of Darnley Street to a full finished standard.

The cost to the Municipality for item (a) is estimated to be approximately \$ , and any recovery of this cost would be expected to be from the additional lease rental sum proposed in the first five years plus recognition of the benefit derived by the Lessee when setting the lease rental rate for the succeeding five year terms.

The cost to the Municipality of item (b) is estimated to be approximately \$ , based on 50% cost-sharing under the Benevolent Subdivider Policy. This approach is considered to be warranted as the Corporation owns the lands immediately west of Ardingley Avenue north of Darnley, and these lands are proposed for future sale as an industrial site or sites, when servicing and filling of the land has been completed. Additionally, local engineering construction conditions prevailing in this portion of new roadway north of Darnley (existence of a drainage ditch requiring temporary relocation prior to placement in a storm sewer and involving a period of pre-loading and settlement prior to finishing of the road and storm sewer) further justify phasing and cost-sharing for this particular section of the work.

The balance of the servicing work, including improvement of the portion of Ardingley Avenue from Laurel to Darnley Street to a full finished standard, will be the responsibility of the Lessee. As to the northerly portion of the Ardingley road work, staff will work with the applicant's engineer to achieve an operational plan whereby the Lessee will do the road subgrade preparation including temporarily relocating the drainage ditch onto the Municipal site to the west, surcharging and removing the surcharge and completing the first phase with an interim pavement when a suitable degree of soil consolidation is achieved, as his 50% share of the work. The Corporation's 50% contribution will thereafter take place as a second phase, consisting of final grading, intallation of the storm sewer, and the installation of curbs, sidewalks, pavement and boulevard finishing.

#### 4.4 LAND LEASE PROPOSAL - SECTION 13.0

##### SUBLETTING & MORTGAGING

The Proposal Call did not prohibit subletting or mortgaging of the property, as standard leasehold provisions were contemplated in order to set out rights in this regard.

The Lessee proposes certain rights to sublet the site to Still Creek Recreational Limited Partnership, and to mortgage his leasehold interest in the property. For information, we are advised that the applicant's intention is to proceed by way of a joint development by Burnaby Lake Management Ltd. and Still Creek Recreational Limited Partnership, and thus the provision for subletting.

Staff support inclusion of such provision in the lease, subject to conditions for prior written approval by the Municipality of Burnaby, and this has been incorporated in the Land Lease Proposal.

#### 4.5 LAND LEASE PROPOSAL - SECTION 16.0

##### CONSTRUCTION SCHEDULE

Due to the soil conditions prevailing on the northerly portion of the site, the developer has a need to proceed at an early date with preloading and site preparation work in this part of the project. Based on the preliminary timetable being discussed, the completion of all the particulars of rezoning, site consolidation, and execution of the formal lease will not be achieved prior to the date when preloading must be in place.

As a result, it is necessary to develop a means whereby Municipal approval for the developer to enter upon for such purposes is granted, whilst safeguarding the Municipality's interest in any action ensuing from this site preparation work.

It is proposed that at the appropriate time a licence be granted to permit entry for the purposes of preloading, servicing and site preparation on that portion of the site lying north of the G.V.S. and D.D. sewer easement passing through the site, upon prior satisfaction of the following:

- a) submission of the \$25,000 deposit referred to in the offer;
- b) passage of Second Reading of the Rezoning Bylaw affecting the site; and
- c) receipt of a suitable letter from the developer acknowledging his risk in that the zoning of the site to permit his development has not been finalized, and holding the Corporation harmless and without liability in any action ensuing from his prior entry onto the site under the licence.

Authorization for actual construction and for possession of the balance of the site will follow the normal course of events following site consolidation, zoning, lease execution, and issuance of the requisite permits and approvals.

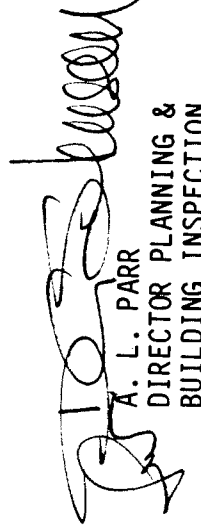
Additionally, it would be appropriate at this time to authorize the Director Finance to serve the tenants in the three Municipally-owned dwellings within the proposed site with four months' Notice to Vacate in compliance with the provisions of the Residential Tenancy Act, in order to achieve the time schedule contemplated in the agreement. The three properties in question are located at 3286 Ardingley Avenue, 3332 Ardingley Avenue and 6433 Laurel Street.

5.0 CONCLUSION:

After due consideration of the lease proposal in light of the comments outlined above, the Planning & Building Inspection Department is prepared to recommend acceptance of the offer to lease.

DGS:lf

cc: Municipal Solicitor  
Director Finance  
Director Recreation & Cultural Services  
Director Engineering  
Chief Building Inspector



A. L. PARR  
DIRECTOR PLANNING &  
BUILDING INSPECTION

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LAND LEASE PROPOSAL - BURNABY LAKE SPORTS COMPLEX AREA

March 19, 1984 (amended)

TO: THE CORPORATION OF THE DISTRICT OF BURNABY

4949 Canada Way  
Burnaby, B.C.  
V5G 1M2

( BURNABY )

WE: BURNABY LAKE MANAGEMENT LTD.

5723 Mayview Circle  
Burnaby, B.C.  
V5G 4B7

( THE LESSEE )

hereby offer to lease from The Corporation of the District of Burnaby the Development Site ( the site ) comprising 15.42 acres located north of Laurel St. and East of Ardingley Avenue, in Burnaby, B.C.

1.0 SITE INFORMATION:

Site Dimensions;	171 m (560 ft.) by 365 m (1200 ft.)
Area:	6.24 ha (15.42 acres) including two privately owned lots on which the Lessee has an option to purchase.
Location:	The site lies north of Laurel Street and east of Ardingley Avenue.
Legal Description:	The Lessee will consolidate the site. Refer to the attached schedule for the present legal descriptions .
Existing Zoning:	M2 (General Industrial District)
Proposed Zoning:	CD (Comprehensive Development District ) .

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2.0 TERM OF LEASE:

The term of the lease shall be twenty-five (25) years commencing May 1, 1985.

3.0 LEASE RATE:

The rental for the first five years shall be one hundred thirty thousand dollars ( \$130,000.00) per year, payable in advance. For each five year period thereafter the rental shall be re-negotiated. This re-negotiation shall be completed at least six months prior to the end of the previous five year period or, failing resolution, shall be submitted for arbitration as provided for in Section 542:3 of the Municipal Act.

4.0 RENEWAL OPTION:

The Lessee shall have the right to renew the lease for an additional five (5) years following the expiry of the original twenty-five (25) year term. The terms of the renewal shall be the same as during the initial term except that the rent shall be established by mutual agreement or failing that by arbitration and the option to renew shall not survive.

5.0 TWO PRIVATELY OWNED LOTS:

The Lessee has an Option to Purchase the two lots at 3362 and 3388 Ardingley Avenue. ( Lots "C" and "D" , Block 3 of Lot 77, Group 1, Plan 13354 NWD ). The lessee shall purchase these lots and will deed them to Burnaby, prior to site consolidation, in return for a credit of two hundred seventy-five thousand dollars ( \$275,000.00) to be applied as prepaid rent for years one and two and part of year three.

6.0 ACCESS AND SERVICING OF THE DEVELOPMENT SITE:

The Lessee shall demolish the existing structures and shall install all electrical, telephone and cable servicing, and all other wiring underground throughout the development, and to the point of connection to the existing service, where sufficient facilities are available to serve the development. In addition, where sufficient facilities are available, the Lessee shall be responsible for the undergrounding of existing overhead wiring abutting the site.

The Lessee shall undertake the following:

- to complete the extention of Ardingley Ave. from Darnley St. to the northern end of the site to an interim standard, namely, subgrade preparation, temporary relocation of the drainage ditch, installation of fill and interim paving.
- to upgrade the existing section of Ardingley Ave. from Laurel to Darnley to full finished 46 foot standard with curbs, lights, sidewalks and boulevards.

Burnaby shall construct the connection from Ardingley Avenue to Morland Avenue, to at least an interim standard by no later than May 1, 1985.

7.0 REZONING:

This offer is subject to the site being rezoned from M2 (General Industrial District) to CD ( Comprehensive Development District). The Lessee shall make application for rezoning and shall pay the rezoning fee of \$3,660 and shall satisfy all the prerequisites to this procedure.

8.0 USE OF SITE AND LANDSCAPING DESIGN QUALITY:

The Lessee acknowledges the requirements outlined in sections 1.0 and 5.0 of the "Land Lease Proposal" for this site. The type of use and quality of development outlined in these sections are reflected in the drawings and other material presented to Burnaby by the Lessee.

9.0 PAYMENT OF FEES AND LICENCES:

The Lessee shall be responsible for all licence and permit fees as well as for Land Title costs related to the site consolidation and road and lane abandonments.

10.0 PROPERTY TAXES:

The Lessee shall pay all Municipal taxes on the land annually.

11.0 PERFORMANCE GUARANTEE:

The Lessee agrees to the following;

- a. that the lease shall contain a specific, mutually agreeable clause to ensure complete installation of all the facilities shown on the Comprehensive Development plan prior to the issuance of a business licence to operate the facility.
- b. that the lease shall contain a clause requiring the tenant to maintain all the facilities to properly functioning standards and to a high level of maintenance at all times, to a standard not inferior to Municipal facilities in the area.
- c. to posting of a Letter of Credit or Cash Bond of two hundred thousand dollars (\$200,000.00) to ensure the completion of all facilities and landscaping.
- d. to posting a Letter of Credit plus 4% cash inspection fee to ensure the completion of all Engineering Works required to service the site.



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12.0 THIRD PARTY APPROVALS:

The Lessee shall be responsible to obtain all approvals required to develop the site which are not under the jurisdiction of Burnaby. Burnaby shall co-operate by supplying information that may be required by various approval authorities and in the event the application should be made by the landowner, will make the application on behalf of the Lessee.

13.0 SUB LETTING AND MORTGAGING:

The Lessee shall have the right to sub-let the site to STILL CREEK RECREATION LIMITED PARTNERSHIP. The Lessee shall not sub-let or sell his leasehold interest to any other party without the written consent of Burnaby, such consent not to be unreasonably withheld.

The Lessee shall have the right to mortgage his leasehold interest.

14.0 EXISTING TENANCIES:

Burnaby shall give the Lessee vacant possession of the site exclusive of the two lots to be purchased by the Lessee, no later than September 30, 1984.

15.0 REVERSION OF IMPROVEMENTS:

At the end of the lease term, or renewal thereof, the ownership of all improvements to the site shall revert to Burnaby.

16.0 CONSTRUCTION SCHEDULE:

The Lessee upon receipt of a license to enter the site may commence site preparation. Completion of construction is scheduled for May 1985.

17.0 DEPOSIT:

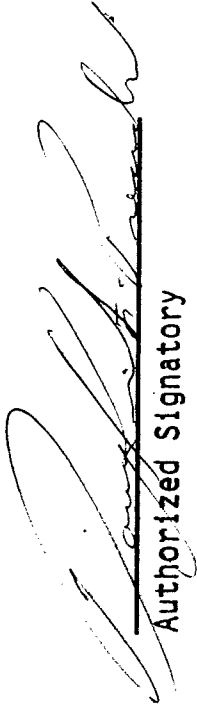
On acceptance of the Offer to Lease by Burnaby, the Lessee shall submit a deposit of twenty-five thousand dollars (\$25,000.00) by way of an irrevocable Bank Letter of Credit in favor of Burnaby. This deposit shall be forfeited as estimated liquidated damages and not as a penalty if the Lessee fails to proceed with the lease agreement and rezoning application or fails to transfer title of the two private lots to Burnaby. The deposit shall be returned to the Lessor if Burnaby fails to rezone the property to CD or when the Lessee transfers title to Burnaby of the two private lots and executes the Lease Agreement.

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Executed at Burnaby, B.C. this 19th day of March 1984

THE CORPORATE SEAL OF BURNABY  
LAKE MANAGEMENT LTD. was hereun-  
to affixed in the presence of:



Authorized Signatory

ADDENDUM:

- "A" -Preliminary Plans for STILL CREEK PARK ( Planning Dept.)
- "B" -Project Consulting Group
- "C" -Site Plan
- "D" -Developer Profile
- "E" -List of Legal Descriptions
- "F" -Copy of Option to Purchase two lots

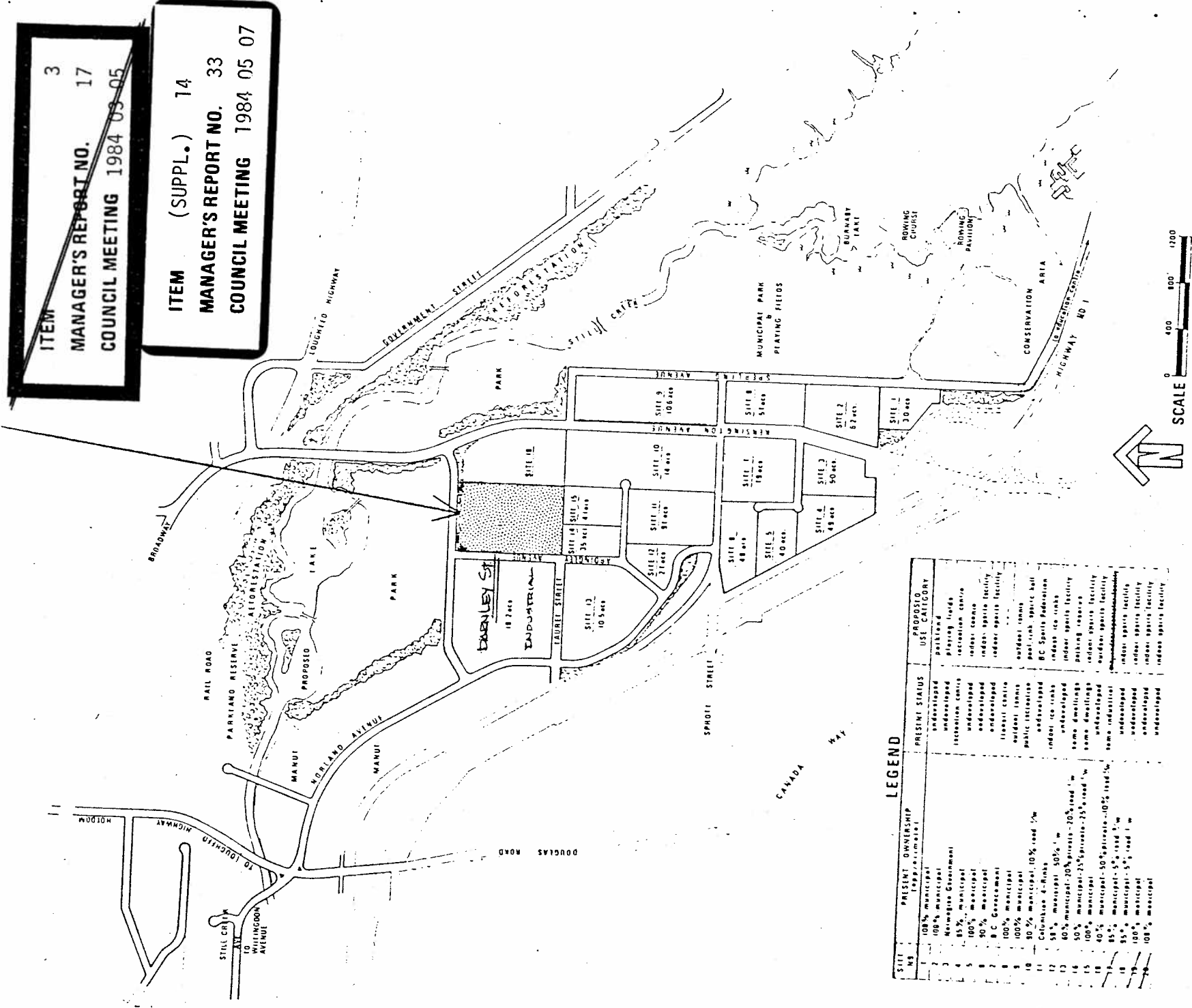
SITE PROPOSED FOR LEASE

360m by 171m= 6.13ha (15.42 ac.)

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**LEGEND**

SITE NO.	PRESERVE OWNERSHIP	PRESERVE STATUS	PROPOSED USE CATEGORY
1	100% municipal	undeveloped	parking
2	100% municipal	undeveloped	parking
3	100% municipal	undeveloped	parking
4	100% municipal	undeveloped	parking
5	100% municipal	undeveloped	parking
6	100% municipal	undeveloped	parking
7	100% municipal	undeveloped	parking
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23	100% municipal	undeveloped	parking
24	100% municipal	undeveloped	parking

**PROPOSED LAND USE AND SUBDIVISIONS**

Extract from:

Burnaby Lake Sports Complex Development Plan  
 Approved by Council 1976.

Figure 1

