

ITEM	4
MANAGER'S REPORT NO.	26
COUNCIL MEETING	92/04/13

TO: ACTING MUNICIPAL MANAGER
 FROM: DIRECTOR PLANNING AND BUILDING
 SUBJECT: SUBDIVISION REFERENCE #88/90
 B.C. HYDRO HEADQUARTERS COMPLEX

1992 April 06

MINOR ENCROACHMENT OF CONCRETE PARKADE FOUNDATION WALL BENEATH THE BOULEVARD AT THE INTERSECTION OF 19TH STREET AND SOUTHPOINT DRIVE

PROPOSED AIRSPACE PARCEL

PURPOSE: To obtain Council approval to the Ministry of Transportation and Highways raising and retaining title to that 2 m² "ground" portion of boulevard at the intersection of 19th Street and Southpoint Drive beneath which a small portion of the recently constructed concrete foundation wall for the B.C. Hydro parkade encroaches, and M.O.T.H. leasing the airspace parcel to be created around this encroachment to B.C. Hydro.

RECOMMENDATION:

1. **THAT** Council consent to the Ministry of Transportation and Highways raising and retaining title to that 2 m² "ground" portion of boulevard at the intersection of 19th Street and Southpoint Drive beneath which a small portion of the recently constructed concrete foundation wall for the B.C. Hydro parkade encroaches, and M.O.T.H. leasing the airspace parcel to be created around this encroachment to B.C. Hydro, pursuant to Section 139(1) of the Land Title Act, subject to the conditions outlined in this report.

R E P O R T

B.C. Hydro have been pursuing the development of portions of their site at 19th Street and Southpoint Drive as shown on the attached Sketch #1 in accordance with Rezoning Reference #36/90. Amendment Bylaw No. 53, 1990 - Bylaw 9455 was given Final Adoption by Council on 1991 August 06.

Part of their development includes the construction of an underground parkade. It has been brought to our attention that a small portion of the recently constructed concrete foundation wall for this parkade encroaches, below ground level, into a 2 m² portion of the boulevard at the 19th Street and Southpoint Drive intersection as shown on the attached Sketch #2.

Section 139(1) of the Land Title Act permits the Ministry of Transportation and Highways to raise and retain title to that 2 m² "ground" portion of the subject intersection beneath which this concrete foundation wall will encroach and for the creation of an airspace parcel around this encroachment for the purpose of leasing this area to B.C. Hydro, with the consent of the Municipality. This airspace parcel will remain under the ownership of the Ministry and this section of the boulevard will continue to function as a public road right-of-way. There are no utilities within this proposed airspace parcel and there are no road improvements that will be affected by the encroachment.

RE: SUBDIVISION REFERENCE #88/90
B.C. HYDRO HEADQUARTERS COMPLEX
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The lease would be subject to the following:

1. The lease agreement is to include an indemnification clause which affords Burnaby complete protection against liability arising out of the development and use of the airspace parcel.
2. Burnaby is to be named an additional insured under B.C. Hydro's Liability policy.
3. A copy of this lease is to be provided to the Municipality.
4. An as-built survey plan showing the location of the structure within the airspace parcel is to be provided to the Municipality.

We are, therefore, seeking the consent of Council to this proposal in accordance with Section 139(1) of the Land Title Act.


A. L. Parr, Director
Planning and Building

CMM:hr
Atts.

cc: Municipal Solicitor
Director Engineering
Chief Building Inspector

PART OF D.L. 53 Gp. 1, SHOWN AS ROAD ON PLAN LMP 1234,
PLAN LMP 1233, NEW WESTMINSTER DISTRICT

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