

2001 FEBRUARY 22

TO: CITY MANAGER

FROM: DIRECTOR PARKS, RECREATION AND CULTURAL SERVICES

**SUBJECT: BURNABY FRASER FORESHORE PARK – PROPOSED INTERPRETIVE
LOOKOUT AND RENEWAL OF WATER LOT LEASE NO.07015 FOR THE
EXISTING PIER**

PURPOSE: To request Council's authorization for the renewal of Port North Fraser Water Lot Lease No. 07015 (Fraser River North Arm) for public recreation purposes for the term of one year, commencing 2001 January 01, as outlined in the attached report.

RECOMMENDATION:

1. THAT authorization be given to the renewal of Port North Fraser Water Lot Lease No. 07015 (Fraser River North Arm) for public recreation purposes for the term of one year, commencing 2001 January 01, as outlined in the attached report.

REPORT

At its meeting of 2001 February 21, the Parks, Recreation and Culture Commission received the above noted report and adopted the recommendation contained therein.



Kate Friars
DIRECTOR PARKS, RECREATION
AND CULTURAL SERVICES

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Attachment

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cc: City Solicitor
City Risk Manager
Director Planning and Building

**SUBJECT: BURNABY FRASER FORESHORE PARK – PROPOSED INTERPRETIVE
LOOKOUT AND RENEWAL OF WATER LOT LEASE NO.07015 FOR THE
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RECOMMENDATION:

1. THAT Council be requested to authorize the renewal of Port North Fraser Water Lot Lease No. 07015 (Fraser River North Arm) for public recreation purposes for the term of one year, commencing 2001 January 01, as outlined in this report .

REPORT

INTRODUCTION:

A number of opportunities to provide public access to the Fraser River have arisen in recent years. The first, involving the cooperative development of an interpretive lookout at Burnaby Fraser Foreshore Park in conjunction with the Canada Land Company (CLC), arose in 1996 and is now nearing the construction stage. The second opportunity arose in 1998 and resulted in the City taking ownership of an existing loading pier for the purpose of converting it to public use as a viewing and fishing pier. The transfer of the pier required the City to enter into a lease with the North Fraser Port Authority (NFPA) for the use of the water lot area in which the pier is located. The purpose of this report is to provide the Commission and Council with a status report on the development of the interpretive lookout project and to seek authorization to renew the water lot lease for the existing public pier.

FRASER RIVER INTERPRETIVE LOOKOUT

As Commission and Council are aware, CLC is developing the 135 acre Glenlyon Business Park in Burnaby's Big Bend area. This project is situated adjacent to Burnaby Fraser Foreshore Park. The adopted Glenlyon Concept Plan proposes that an Interpretive Lookout be constructed at the confluence of Sussex Creek and the Fraser River as illustrated on the attached Big Bend Development Plan (Attachment #1). Council approval of the lookout development was obtained in 1996 and capital funding of up to \$45,000 is in place from the City for this project based on an equal contribution from the CLC, with any overages incurred by the project to be covered by CLC. CLC is also seeking additional donations towards the project from other companies in the area who share in the heritage of the river and wish to participate in this project.

The proposed lookout, shown on the attached plan (Attachment #2), involves an elevated steel boardwalk structure extending from the shoreline over a beach area at the confluence of Sussex Creek and the Fraser River. The Lookout is located within City park property, save for a small 0.07 square metre section of the lookout's decking which extends over the adjacent NFPA water lot.

The NFPA has given its approval for the project recognizing the small encroachment over the adjacent water lot. The NFPA is currently reviewing its potential need for a formal agreement with regard to the projection, such as a 'save harmless' agreement that would address any liability issues for the NFPA associated with public use within its water lot area. Should such a request be made, a further report will be submitted to Council on the matter.

It is intended that interpretive media would be integrated into the boardwalk and lookout structure as part of an overall interpretive program telling the story of the Fraser River estuary ecosystem, cultural history and working waterfront. These subjects would be interpreted at key nodes in the area, starting with interpretation of the working river at the lookout structure, followed by interpretations on cultural and estuary ecosystem at the existing Burnaby Fraser Foreshore Park pier and restored 'terminus lands' estuary.

A plaque, acknowledging this joint project between the City and CLC, and other potential contributors, will be included as part of the Lookout development. CLC also proposes to incorporate a seat/bench into the Lookout structure as part of a memorial donation to commemorate, Martin Tupper, a Civil Engineer who worked on the Glenlyon development. Details of the location of the plaques, the materials and wording will be brought forward for the Commission's approval in a future report.

Based on final designs prepared by CLC's consultants, Fraser River Estuary Management Plan approval for construction of the interpretive lookout has been received and is valid until 2001, November 1st. CLC will shortly be submitting Preliminary Plan Approval and Building Permit applications for the project to the City at which time a final review of the design will be conducted by staff. Once the permits are in place, construction, which is to be undertaken by CLC and its contractors, will commence in early Spring 2001 with completion anticipated in time for Environment Week in June 2001. Upon its completion, the lookout structure will be owned by the City and maintained by Parks, Recreation and Cultural Services as a park amenity.

NORTH FRASER PORT AUTHORITY LEASE NO. 07015

In January of 1999, a water front property on the Fraser River (Lot 44) was transferred to the City as part of the re-zoning and subdivision of Commonwealth Construction Company's property located off of Tillicum Street. Along with the transfer of Lot 44 for inclusion in Burnaby Fraser Foreshore Park, the Commission approved the transfer of an existing loading pier facility for conversion to public use as a viewing and fishing pier. The pier's location within the park is indicated on the attached Big Bend Development Plan (Attachment #1). The pier is located in NFPA Water Lot 5679 on the North Arm of the Fraser River. The City leased this water lot for public recreation purposes at a reduced rate of \$2,625.00 per annum (plus GST) from the NFPA for a one year term commencing 1999, January 01 and subsequently renewed the lease for a further one year term which has now expired.

Under the NFPA lease the City accepts and occupies the Land “as is”. The NFPA lease contains a number of clauses related to tenant responsibility for environmental contamination, including contamination resulting from activities upstream, which would expose the City to an unpredictable and immeasurable financial risk. In an effort to address the City’s concerns regarding the lease form, the City and the NFPA entered into the lease for a term of one year, commencing 1999, January 01, with the understanding that during the one year term the potential for alternate forms of legal access to the pier would be explored with the Province, the holder of the head lease. To this end, staff contacted the Ministry of Environment, Land and Parks to outline the City’s concerns regarding the environmental provisions of the lease and to request an opportunity to meet to discuss options which might be available to address these concerns.

Late in 1999, the B.C. Assets and Land Corporation (BCAL), the agency responsible for Provincial land and water assets, informed staff that a response could be expected shortly and advised the City to hold off on the renewal of the lease in anticipation of this response.

A preliminary response was subsequently received in April 2000. BCAL indicated that it appreciates the City’s concerns with the terms and agrees that some of the clauses deemed inapplicable can be revised. The environmental indemnity clauses however mirror standard clauses which the Attorney General has begun to advise BCAL to use in its documentation. Many of these clauses have arisen from recent changes to Provincial waste management and contaminated sites regulations. BCAL advised that through discussions with its clients, questions similar to the City’s concerning these terms and conditions have arisen and it is seeking clarification from the Attorney General’s Office. In addition, BCAL indicated that it has initiated a process for reviewing the terms and conditions of its head lease with the Port and through that process also review with them the terms and conditions of their lease documents.

BCAL anticipated that the completion of these processes would take it to the next year and in light of this time frame, BCAL asked that the City continue to work with its agent on the North Arm, the NFPA, to replace the expired lease for at least an additional year. BCAL also suggested that the City’s request for a meeting to discuss the issue of alternative options for legal access be delayed until the aforementioned processes have reached completion.

As requested by BCAL, the City renewed its lease for a further one year term, commencing 2000, January 01. That term has now expired and the lease is, once again, due for renewal. Staff have contacted BCAL to ascertain the status of its review process. BCAL has advised that it is well into its process and it hopes to have a new head lease in place by late summer 2001. Once the new head lease is in place BCAL will be contacting Burnaby to discuss the issue of alternative options for legal access, including the possibility of a direct lease with BCAL. With respect to renewal of the current NFPA lease, BCAL suggests that the City renew for a further one year term by which time it expects to have concluded its process.

Given the above noted response from BCAL, the capital investment the City has made to renovate and enhance the pier, and the opening of the pier to public use in 1999, staff recommend that Council be requested to authorize the renewal of Water Lot Lease No. 07015 for public recreation purposes for a further term of one year, commencing 2001 January 01 at the reduced rate of \$2,625.00 (plus GST) per annum. Staff will continue to pursue discussions for alternative legal access with BCAL and the Port when their processes have been completed.

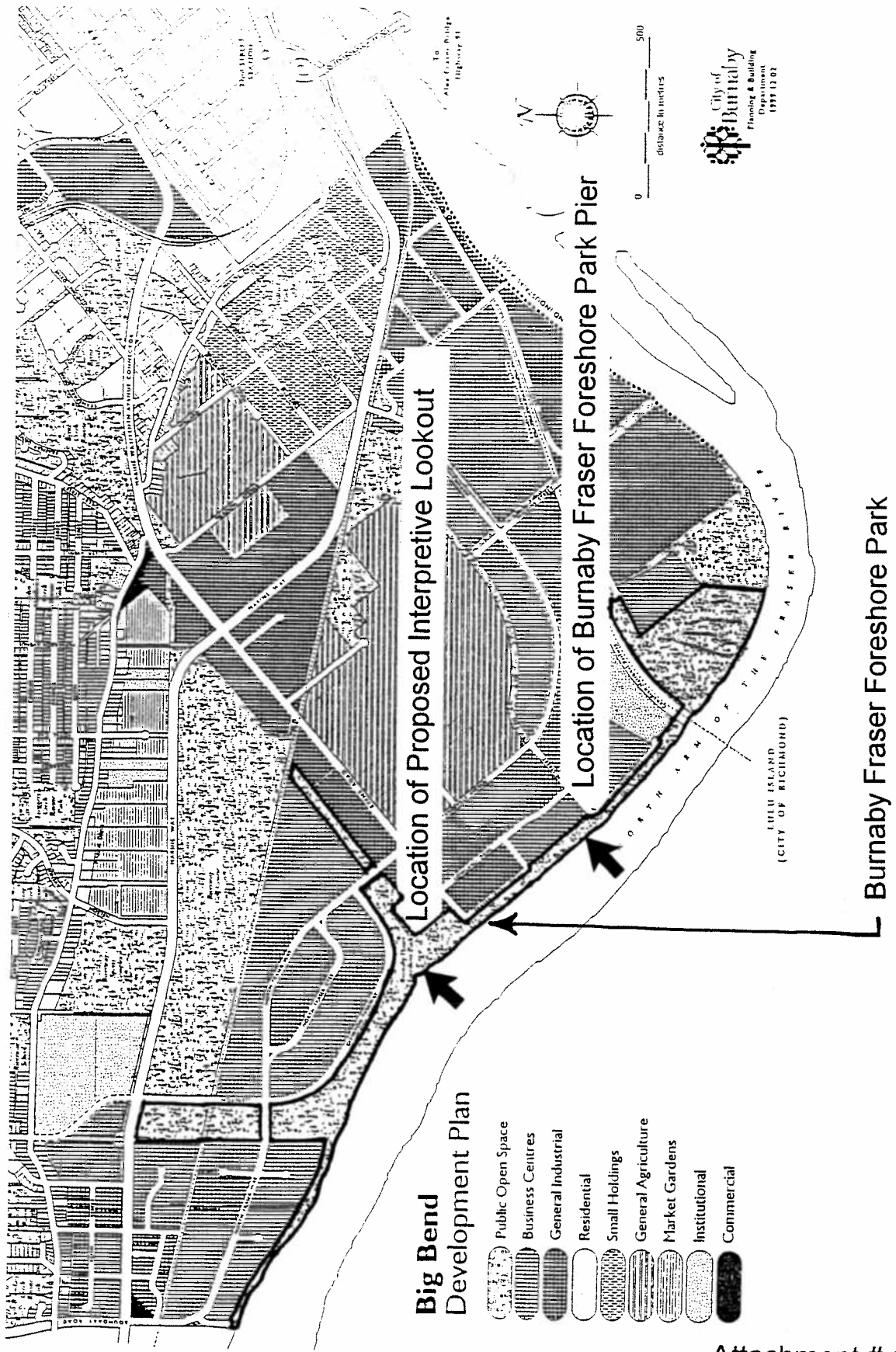
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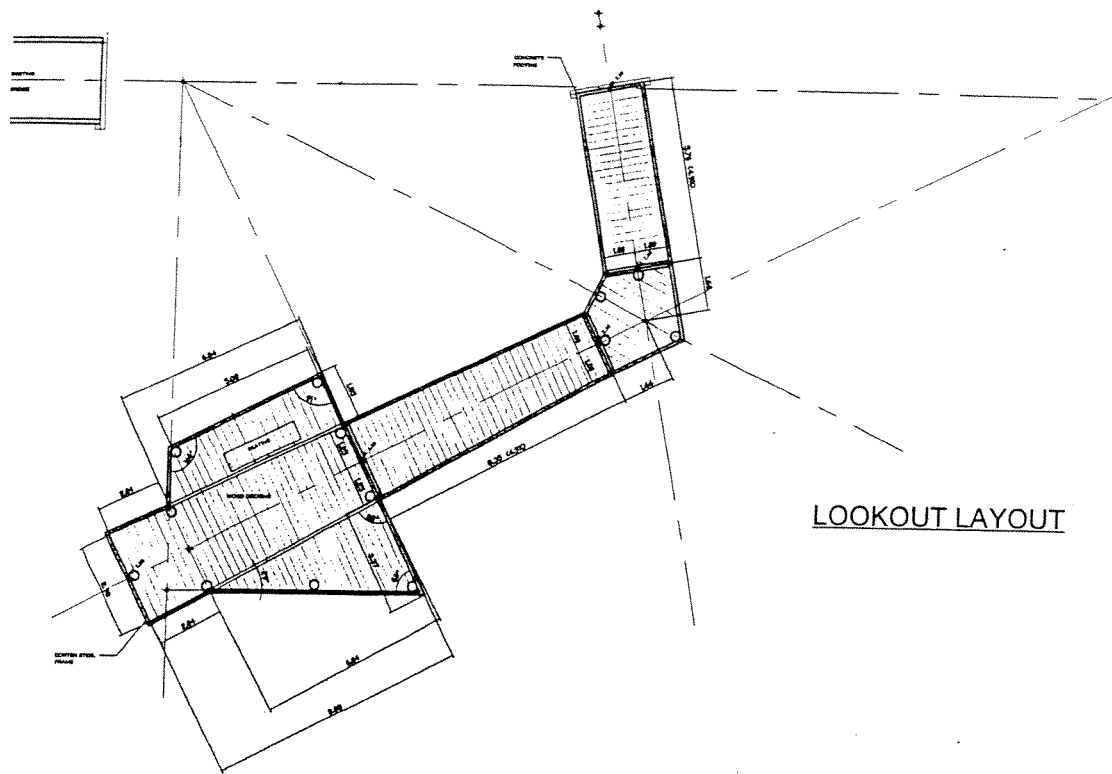
Attachments (2)

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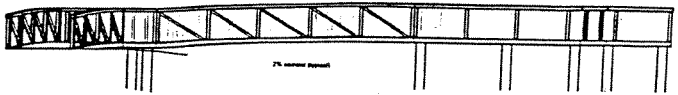
cc: City Solicitor
City Risk Manager
Director Planning and Building



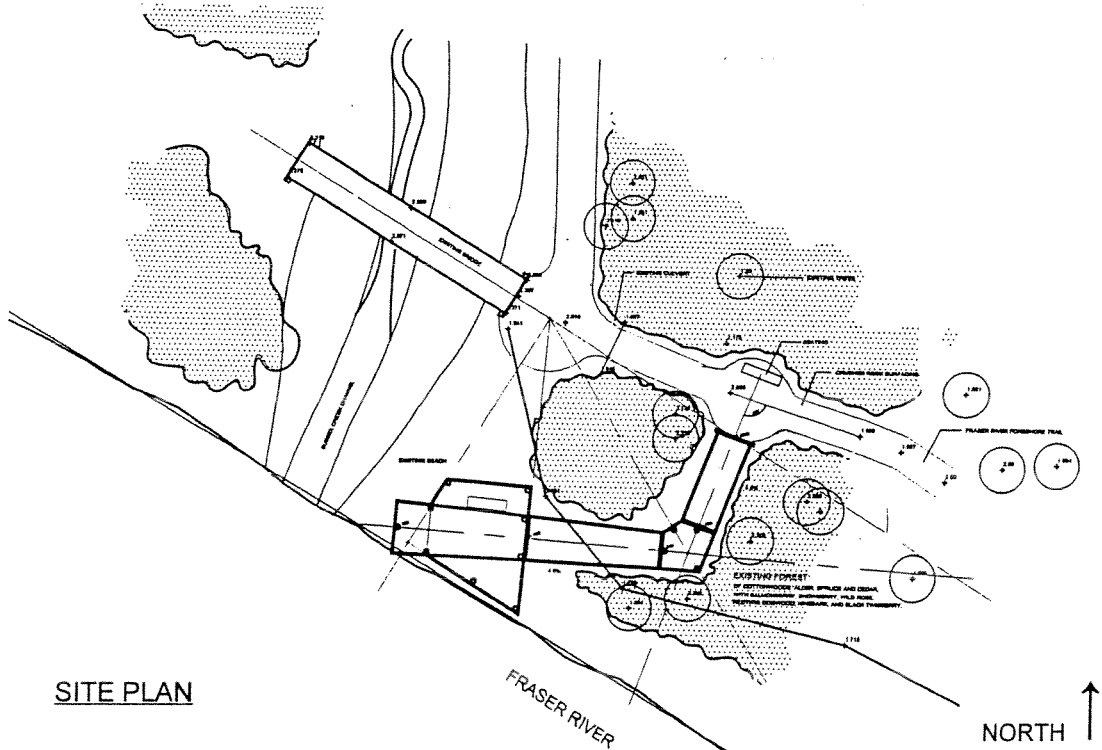
Attachment # 1



LOOKOUT LAYOUT



NORTH ELEVATION



SITE PLAN

Fraser River Interpretive Lookout
 BURNABY FRASER FORESHORE PARK

ATTACHMENT # 2

