



ADMINISTRATIVE REPORT

Report Date: January 18, 2010
Contact: David Parkin
Contact No.: 604.873.7328
RTS No.: 7325
VanRIMS No.: 08-2000-20
Meeting Date: February 2, 2010

TO: Vancouver City Council
FROM: General Manager of Engineering Services
SUBJECT: Proposed Closure of Portions of Gore Avenue and Lane Adjacent to 663 Gore Avenue

RECOMMENDATION

- A. THAT Council authorize the Director of Legal Services to apply and raise title in the name of the City of Vancouver to the portions of Gore Avenue and Lane north of East Georgia Street, east from Gore Avenue (the "Road and Lane") that contain the encroachments by the existing building at 663 Gore Avenue, the said portion as shown on a reduced copy of a Reference Plan attached hereto as Appendix "A".
- B. THAT all those volumetric portions of Road and Lane included within the heavy outline and illustrated isometrically on a plan of survey, a reduced copy of which is attached as Appendix "B", be closed, stopped-up and that an easement be granted to the owner of abutting Lot H Block 17 District Lot 196 New Westminster District Plan BCP11929 ("Lot H") to contain the portions of the existing building which encroach onto the Road and Lane. The easement is to be for the life of the encroaching portions of the existing building on Lot H and to be to the satisfaction of the Director of Legal Services.
- C. THAT fees for the document preparation, registration and use of the easement referred to in Recommendation "B" are to be in accordance with those charged for in an agreement prepared pursuant to the Encroachment By-law.
- D. THAT the Director of Legal Services be authorized to execute all documents and plans required.

If council approves this report, the Formal Resolution to close portions of Gore Avenue and Lane will be before Council later this day for approval.

COUNCIL POLICY

The authority for closing and disposing of streets and lanes is set out in the Vancouver Charter.

PURPOSE

The purpose of this report is to obtain Council authority to close and stop-up the portion of Road and Lane and to grant an easement to contain the encroaching elements of the building located at 663 Gore Avenue.

BACKGROUND

The subject site (Lot H) has been redeveloped with a 4-storey mixed-use building comprising of 15 residential units and one commercial unit accordance with Development Permit number DE407974. Portions of the building constructed on Lot H encroach onto the Road and Lane. The extents of the encroachments are relatively minor and are the result of construction errors by the previous owner. One of the prior to conditions of the issuance of the development permit requires the owner to enter into agreements with the City to validate the encroachments in accordance with the Encroachment By-law.

The previous owner of Lot H proposed to develop seniors rental housing on the lands and a housing agreement and related Section 219 Covenant (the "Housing Agreement") were registered against Lot H which required that the building only be used for rental housing for seniors and that Lot H could not be stratified unless the owner agreed that the strata lots could not be separately sold or transferred. Due to financial hardships of the previous owner, Lot H went into foreclosure and the Housing Agreement was released from title to Lot H with the consent of the City's Social Development Department. With the release of the Housing Agreement the current owner is not restricted in its ability to stratify the development and has in fact expressed its intention to stratify the development.

The current owner has made efforts to reduce the encroachments to a minimum by cutting off portions of the building projections, yet some encroachments still remain.

The *Strata Property Act* requires that the buildings shown on a strata plan be wholly within the boundaries of the land that is the subject of the strata plan or that appropriate easements exist to provide for access to any parts of the building that are not within the boundaries of the land. Accordingly, the owner requires an easement from the City over volumetric portions of the Road and Lane containing the encroachments to comply with the *Strata Property Act*. To accomplish this, it will be necessary to raise title to the portion of Road and Lane that is encroached upon. The volumetric portions of the Road and Lane containing the encroachments must be closed, stopped-up, and an easement granted for the volumetric portions.

The Road and Lane were dedicated by the deposit of Plan 184 in 1885.

DISCUSSION

The existing roof level cornice is demountable and is not considered to be part of the building for the purposes of the Strata Plan and therefore will continue to be recognized under the provisions of a standard encroachment agreement prepared in accordance with the Encroachment Bylaw.

On the Gore Avenue side of Lot H, portions of the building consisting of concrete foundation below grade, concrete window sills, and 3 storeys of concrete deck projections encroach to a maximum extent of 0.055 metres onto Gore Avenue. On the Lane side of Lot H, portions of the building consisting of 3 storeys of concrete deck projections; second, third and fourth floor concrete window sills; and a second storey concrete decorative projection that encroach to a maximum extent of 0.030 metres onto Lane.

It is therefore necessary to seek Council authority to close, stop-up and authorize registration of a volumetric easement over the portions of Road and Lane described in Recommendation "B". Recommendation "A" seeks authority to raise title to the encroached upon portions of Road and Lane.

Fees will be charged in accordance with the Encroachment By-law which is consistent with past Council direction.

FINANCIAL IMPLICATIONS

There are no financial implications.

CONCLUSION

The General Manager of Engineering Services recommends approval of the Recommendations contained in this report.

* * * * *

REFERENCE PLAN TO ACCOMPANY AN APPLICATION FOR THE
 REGISTRATION OF TITLE IN THE NAME OF THE CITY OF VANCOUVER
 TO THOSE PORTIONS OF ROAD AND LANE DEDICATED
 BY THE DEPOSIT OF PLAN 184 AND ADJACENT TO
 LOT H, BLOCK 17, DISTRICT LOT 196, GROUP 1,
 NEW WESTMINSTER DISTRICT, PLAN BCP 11929

PLAN BCP

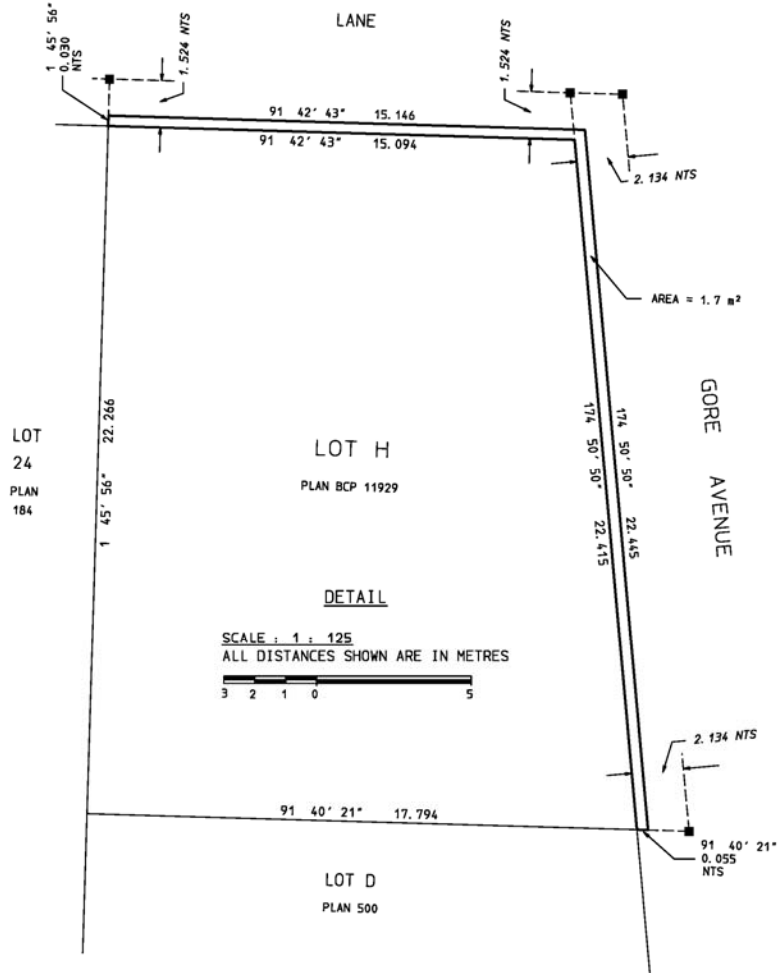
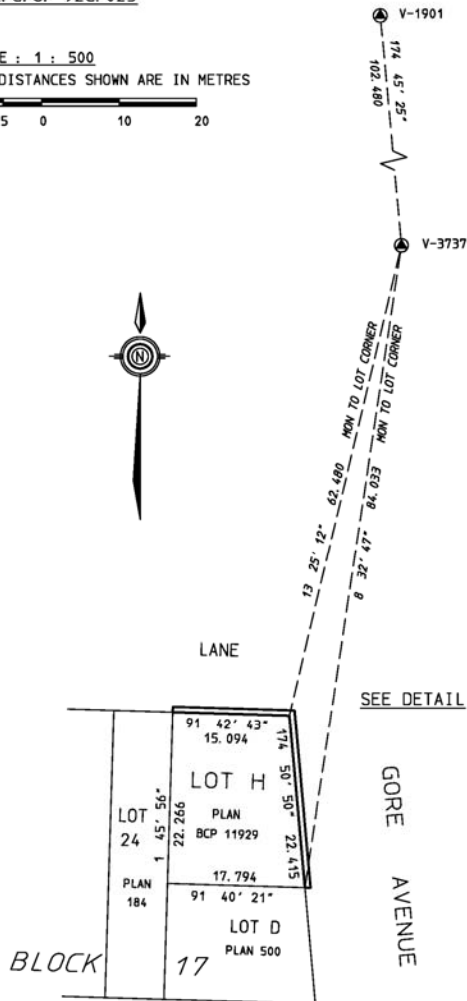
DEPOSITED IN THE LAND TITLE OFFICE
 AT NEW WESTMINSTER, B. C. ON THE
 DAY OF 2006.

INTEGRATED SURVEY AREA NO. 31, CITY OF VANCOUVER, NAD83 (CSRS)

 REGISTRAR

B. C. G. S. 92G.025

SCALE : 1 : 500
 ALL DISTANCES SHOWN ARE IN METRES



SCALE : 1 : 125
 ALL DISTANCES SHOWN ARE IN METRES

OWNER:
 CITY OF VANCOUVER

AUTHORIZED SIGNATORY _____

PRINT NAME _____

WITNESS AS TO CITY OF VANCOUVER _____

SIGNATURE _____

PRINT NAME _____

OCCUPATION _____

ADDRESS OF WITNESS _____

LEGEND

BEARINGS ARE GRID BEARINGS AND ARE DERIVED FROM CONTROL MONUMENTS V1901 AND V3737. THIS PLAN SHOWS GROUND LEVEL MEASURED DISTANCES. PRIOR TO COMPUTATION OF U. T. M. COORDINATES MULTIPLY BY COMBINED FACTOR OF 0.99960105.

- IRON POSTS FOUND SHOWN - ●
- LEAD PLUGS FOUND SHOWN - ■
- IRON POSTS SET SHOWN - ○
- LEAD PLUGS SET SHOWN - □
- CONTROL MONUMENTS SHOWN - ⊕
- NOT TO SCALE SHOWN - NTS

HERMON & OKE.
 B. C. LAND SURVEYORS
 1116 HORNBY STREET,
 VANCOUVER, B. C. V6Z 1V8
 Ph. 604-687-6841
 V. 2005; 2005-159, TIT
 J-2005-159 F. B. p.

THIS PLAN LIES WITHIN THE
 GREATER VANCOUVER REGIONAL DISTRICT

S-11081

FORM 9
 SECTION 67 (1)
 ENDORSEMENT BY SURVEYOR
 I, B. J. OKE, A BRITISH COLUMBIA LAND SURVEYOR,
 OF THE CITY OF VANCOUVER, IN BRITISH COLUMBIA,
 CERTIFY THAT I WAS PRESENT AT AND PERSONALLY
 SUPERINTENDED THE SURVEY REPRESENTED BY THIS
 PLAN AND THAT THE SURVEY AND PLAN ARE CORRECT.
 THE FIELD SURVEY WAS COMPLETED ON THE 9th DAY
 OF MAY, 2008. THE PLAN WAS COMPLETED
 AND CHECKED, AND THE CHECKLIST FILED UNDER
 No. 80849, ON THE 9th DAY OF MAY, 2008.

EXPLANATORY PLAN OF VOLUMETRIC EASEMENT OVER THAT PORTION OF ROAD AND LANE SHOWN IN HEAVY OUTLINE ON PLAN BCP AND DEDICATED BY THE DEPOSIT OF PLAN BCP ADJACENT TO LOT H, BLOCK 17, DISTRICT LOT 196, GROUP 1, N. W. D., PLAN BCP 11929

PLAN BCP

DEPOSITED IN THE LAND TITLE OFFICE AT NEW WESTMINSTER, B. C. THIS ___ DAY OF _____ 200

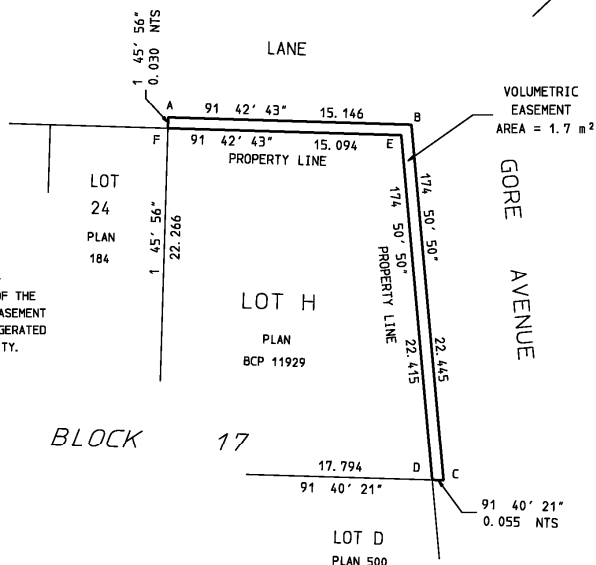
PURSUANT TO SECTION 99 (1) (e) OF THE LAND TITLE ACT
INTEGRATED SURVEY AREA NO. 31, CITY OF VANCOUVER

B. C. G. S. 92G. 025

SCALE : 1 : 250
ALL DISTANCES SHOWN ARE IN METRES



NOTE - THE WIDTH OF THE VOLUMETRIC EASEMENT HAS BEEN EXAGGERATED FOR CLARITY.



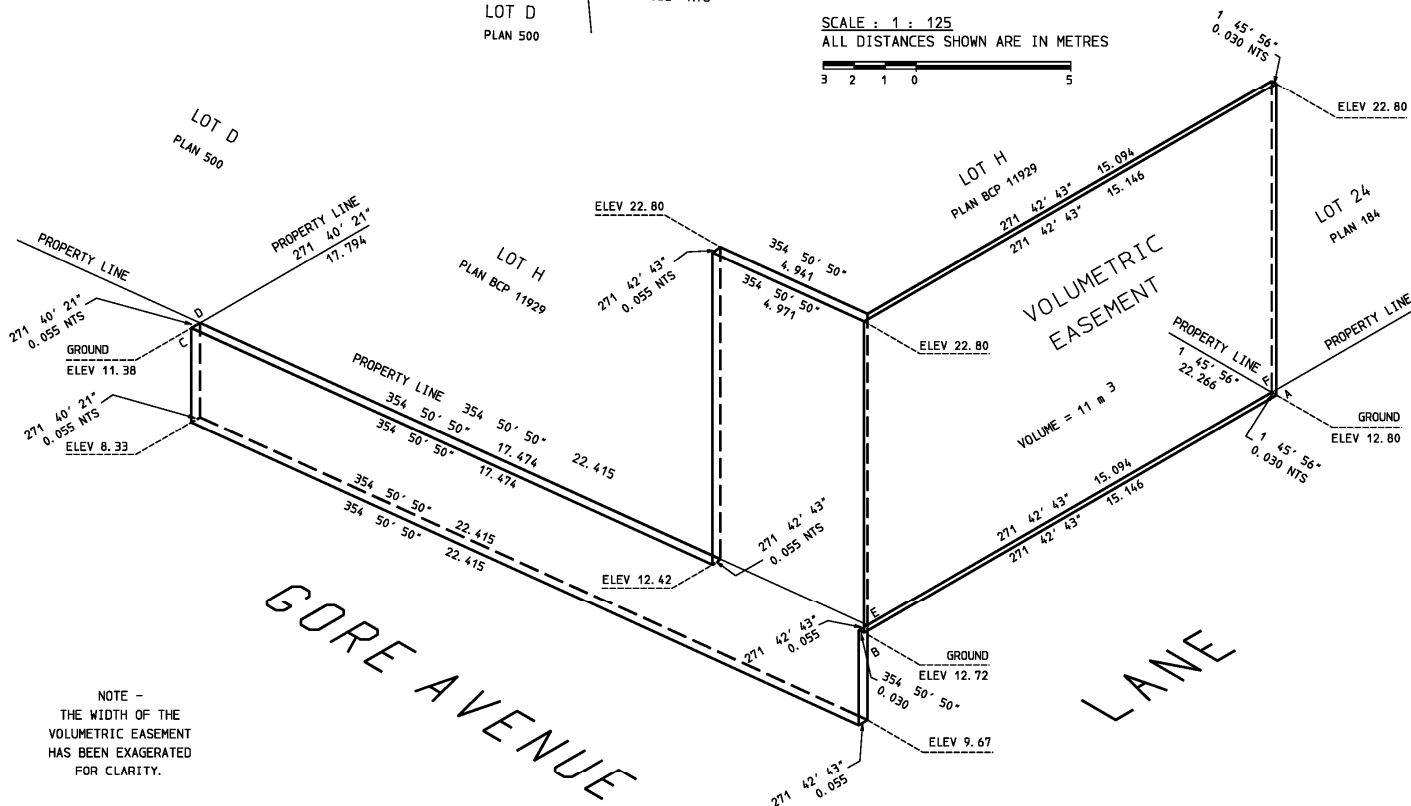
ANGLE OF VIEW OF ISOMETRIC DRAWING

REGISTRAR

BEARINGS ARE GRID BEARINGS AND ARE DERIVED FROM PLAN BCP 11929.
ALL DISTANCES ARE SHOWN IN METRES AND DECIMALS THEREOF.
ELEVATIONS ARE BASED ON GVRD GEODETIC 2005 DATUM AND ARE DERIVED FROM MONUMENT V-3737.
ELEVATION = 15.674 METRES.

ISOMETRIC VIEW OF VOLUMETRIC EASEMENT

SCALE : 1 : 125
ALL DISTANCES SHOWN ARE IN METRES



NOTE - THE WIDTH OF THE VOLUMETRIC EASEMENT HAS BEEN EXAGGERATED FOR CLARITY.

THIS PLAN WAS COMPLETED AND CHECKED, AND THE CHECKLIST FILED UNDER No. 80839, ON THE 9th DAY OF MAY, 2008 AND IS HEREBY CERTIFIED CORRECT IN ACCORDANCE WITH LAND TITLE OFFICE RECORDS

THIS PLAN LIES WITHIN THE GREATER VANCOUVER REGIONAL DISTRICT.

LEGEND

NTS DENOTES NOT TO SCALE
ELEV DENOTES ELEVATION

HERMON & OKE.
B. C. LAND SURVEYORS
1116 HORNBY STREET,
VANCOUVER, B. C. V6Z 1V8
Ph. 604-687-6841
J-2005-159 F. B. p.
V. 2005: 2005-159. V1