

**120 Bremner Boulevard, Block 7B, Lower Simcoe
Pedestrian Bridge – Directions Report**

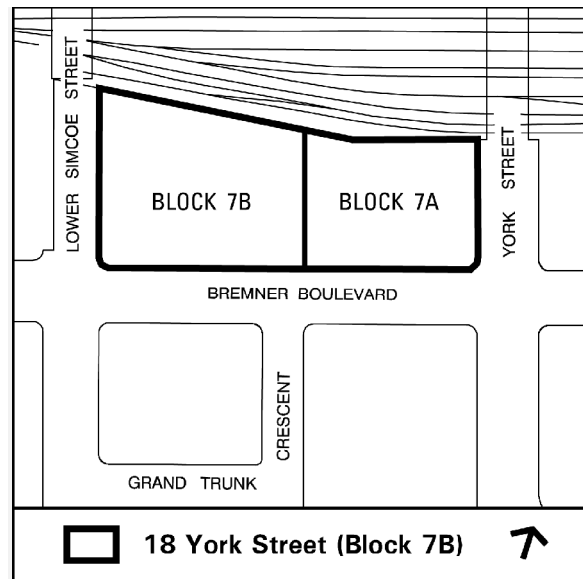
Date:	March 19, 2013
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 20 – Trinity-Spadina
Reference Number:	10 189641 STE 20 SA

SUMMARY

BcIMC HOLDCO (2007) INC. (the "Applicant") proposes to construct and maintain a PATH pedestrian bridge (the " Bridge") at its sole expense linking the Delta Toronto Hotel, currently under construction at 120 Bremner Boulevard, with the SkyWalk along the path shown substantially in Attachments 2 and 3. The Bridge is an important link to the downtown PATH system and is supported by policies in the City of Toronto Official Plan as well as the PATH Master Plan.

In 2002, Council directed staff to identify what steps would be required to construct a PATH bridge connecting a Hotel on Block 7B to either the Metro Toronto Convention Centre or the SkyWalk. Staff responded with recommendations to Council and the Railway Lands Precinct B Agreement was subsequently amended. The amended language states that the Applicant will construct, maintain, repair and operate the Bridge at the sole expense of the Applicant, provided that the City obtain all third party approvals as may be required to permit the construction and use of the Bridge.

The City may elect not to pursue such approvals, in which case the requirement for the Bridge is to terminate under the



amending agreement to the Railway Lands Precinct B Agreement.

This report reviews and recommends that the City approve the configuration of the PATH Bridge shown substantially in Attachments 2, 3 and 4 and that the City pursue third party approvals as may be required to permit the construction and use of the Bridge subject to those conditions enumerated in Recommendation 2 below.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council approve the configuration of the proposed Bridge as shown substantially in Attachments 2, 3 and 4 of the report (March 19, 2013) from the Director, Community Planning, Toronto and East York District and titled: "120 Bremner Boulevard, Block 7B, Lower Simcoe Pedestrian Bridge – Directions Report".
2. City Council elect to pursue third party approvals as may be required to permit the construction and use of the Bridge provided that :
 - a. the Applicant assumes full responsibility for the identification of all required third party approvals;
 - b. the City will only be pursuing third party approvals identified by the Applicant;
 - c. the City will not be pursuing third party approvals after the date that the City executes the Pedestrian Bridge License Agreement described in Recommendation 3;
 - d. the Applicant will be responsible for securing all other approvals and permits required for the construction and use of the Bridge;
 - e. the Applicant will provide the City with a release and indemnity in favour of the City, in form and substance satisfactory to the City Solicitor, indemnifying and releasing the City from any and all claims resulting from the City pursuing or obtaining third party approvals identified by the Applicant and such an indemnity shall include without limiting the generality of the foregoing, any failure by the City to obtain any Applicant identified third party approvals or other approvals or permits required for the Construction and use of the Bridge and any disputes, losses, liability or claims arising there from; and
 - f. the City only incurring nominal costs for obtaining such third party approvals. For the purposes of this Report, nominal costs incurred by the City means waived permit, licensing, service and registration fees and Staff time expended in obtaining third party approvals for the construction and use of the Bridge.

3. City Council authorize and direct the Director, Real Estate Services, to negotiate, as facilitator and not as agent for any party, a Pedestrian Bridge Licence Agreement on terms and conditions set out in Attachment 5 of the report (March 19, 2013) from the Director, Community Planning, Toronto and East York District and titled: "120 Bremner Boulevard, Block 7B, Lower Simcoe Pedestrian Bridge – Directions Report", and approves the City entering into such Agreement, provided such Agreement is entered into within 180 days of this Council decision, failing which or in the event that the City is to incur a cost for obtaining any third party approval the Director or City Staff shall report back to the next available meeting of Toronto and East York Community Council.
4. City Council authorize that permit, licensing, service and registration fees be waived for encroachment and licence agreements relating to the Bridge.

Financial Impact

As per the Railway Lands Precinct B Agreement, if the City elects to obtain third party approvals for the construction and use of the Bridge, such approvals are to be at nominal costs to the Applicant. For this reason, Staff recommend that the permit, licensing, service and registration fees be waived for encroachment and licence agreements relating to the Bridge.

This will result in the following foregone fees collected by the City of Toronto:

1. Encroachment application fee: \$2378.92 (Affected Division: Transportation Services, Right-of-Way Management.)
2. Legal agreement fee: \$723.47 (Affected Division: Legal Services.)
3. Bridge License fee (for ongoing occupancy of City owned land, including Metro Toronto Convention Lands, owned by the City of Toronto): \$7,600 per year. (Affected Division: Real Estate Services.)

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting of June 18, 19, 20, 2002 City Council adopted the recommendation from the Director, Community Planning, South District allowing the site specific by-law which permitted a hotel and office building to be constructed. At the same meeting City Council agreed to amend the Railway Lands Precinct B agreement to allow for the construction of the Bridge. This amendment was made so that the hotel would be connected via the PATH system to the Metro Toronto Convention Centre.

On August 27, 2010, Toronto City Council enacted site specific by-law 1078-2010 which permitted commercial office uses on the site.

COMMENTS

Proposal

The Applicant is proposing to construct an above-grade PATH Pedestrian Bridge across Lower Simcoe Street linking the Delta Toronto Hotel (under construction) with the SkyWalk. This proposal will allow hotel guests and pedestrian commuters to access the SkyWalk and ultimately the Metro Toronto Convention Centre, Pearson Air-Rail Link, CN Tower, Aquarium and Union Station. The Bridge completes an essential loop in the PATH system south of the railway as shown in the PATH Master Plan, will support tourism, conferences, commuters and economic development objectives of the City of Toronto.

Site and Surrounding Area

The site is located in Railway Lands East and the Financial District, an area characterized by a vibrant mix of commercial, office, residential and recreational uses in a predominantly high-rise built form setting. Within the immediate context, the following uses surround the site:

- North: the Toronto Terminal Railway, GO and CN rail corridor, and beyond which are office buildings. 151 Front Street has an approved development application for a 36-storey office building (file nos. 05 105725 STE 20 OZ and 06 198574 STE 20 OZ);
- East: a 26-storey office building under construction with an address of 18 York Street (Block 7A, Railway Lands East, file no. 06 162121 STE 20 OZ);
- South: Bremner Boulevard, beyond which is a mixed use building with a 16-storey and 35-storey residential tower; to the southeast is an approved development at 16 York Street. This project consists of a 31-storey office building, and 57 and 67 storey residential towers under construction (08 100769 STE 20 OZ and 09 161101 STE 20 SA); and
- West: Lower Simcoe Street, beyond which is the Metro Toronto Convention Centre and parkland.

Planning Rationale

The Bridge complies with all applicable Provincial and Municipal policies. Although discussed in greater detail below, the bridge complies with and acts to further the policies of the City of Toronto Official Plan as well as the PATH Master Plan.

Zoning

The property is currently zoned CR Block 7B under the Railway Lands East Zoning Bylaw 168-93.

Site Specific Zoning By-law 549-2002 permits a hotel and/or mixed hotel and residential development, with a maximum gross floor area of 74,134 square metres and a height of 98 metres.

Toronto City Council enacted site specific by-law 1078-2010 which permitted commercial office uses on the site.

Site Plan Control

The proposed development of the office and hotel is subject to site plan control. An application for site plan control was submitted on June 4, 2010 (file no. 10 189 641 STE 20 SA). Revised Notice of Approval Conditions were issued on February 4, 2013.

Reasons for Directions Report

At its meeting of June 18, 19, and 20, 2002 City Council adopted the recommendations from the Report by the Director, Community Planning, South District which, among other things, authorized amendments to the Railway Lands Precinct B Agreement. Several new sections were added, including Section 5.1 A which states:

"Provided the City obtain all third party approvals as may be required to permit the construction and use of the Simcoe Street Pedestrian Bridge without cost to CP Properties except as expressly set out below, CP Properties shall construct, operate and maintain the Simcoe Street Pedestrian Bridge in the event that Block 7B is developed for use as a hotel. At the time the Development Application for Block 7B is submitted, CP Properties shall give written notice to the City, and the City shall consider which of the two connection options for the Simcoe Street Pedestrian Bridge is preferred and the City, at its election, will seek the approvals of such third parties as necessary, for the Simcoe Street Pedestrian Bridge. Any such third party approvals shall be generally on the terms described in Schedule J-6 with such modifications as are appropriate. For greater certainty the City may elect not to pursue such approvals in which case the requirement for the Simcoe Street Pedestrian Bridge under this Agreement shall terminate. The City shall have a period of 180 days from the date of the aforesaid notice to obtain any third party approval required for the Simcoe Street Pedestrian Bridge, and if the City has been unable to obtain such approvals within such period of time, unless both CP Properties and the City agree to extend such time period, it shall be deemed that the City was unable to obtain such approvals and the requirement for the Simcoe Street Pedestrian Bridge under this Agreement shall terminate. In the event that the City has obtained such approvals within such period of time, and without cost to CP Properties, then CP Properties agrees to construct maintain, repair and operate the Simcoe Street Pedestrian Bridge. For greater certainty, there shall be no requirement for the Simcoe Street Pedestrian Bridge in the event that the Development of Block 7B does not include a hotel."

The agreement goes on to state that:

"The Simcoe Street Pedestrian Bridge shall be used for the purpose of providing weather protected pedestrian access from buildings erected on Block 7B to the west side of Simcoe Street or alternatively to the SkyWalk. Prior to commencing construction of the

Simcoe Street Pedestrian Bridge, CP Properties and the City (and with any third parties as appropriate) shall enter into a license agreement generally which incorporates the provisions set forth in Schedule J-6 (the "Pedestrian Bridge License Agreement").

Schedule J-6 states that:

- "1. CP Properties is to have a license from the City and from any third parties as applicable, to construct, maintain, repair and operate the Simcoe Street Pedestrian Bridge for the nominal sum of one dollar (\$1.00) (such license to be obtained by the City).
2. CP Properties shall be responsible for the cost of an all aspects of construction, maintenance, operation and repair of the Simcoe Street Pedestrian Bridge, and indemnify the City or any third parties over whose land the Bridge is located, from any liability whatsoever arising as a result of or in connection with the bridge, in accordance with the typical standards set forth in pedestrian bridge agreements entered into by the city at the time of execution of the Pedestrian Bridge License Agreement.
3. Other than the license fee described in 1 above, CP Properties shall not pay a connecting fee or any other charge to the City or to any third party for the use of the street allowance or any property of any third party for the Simcoe Street Pedestrian Bridge."

The City of Toronto signed the amended agreement and the amended Precinct Agreement was registered on title as instrument number E560121 on June 28, 2002. The obligations of CP Properties have been assumed by the new property owner BcIMC HOLDCO (2007) INC., the Applicant, who are developing Block 7B, known municipally as 120 Bremner Boulevard, as The Delta Toronto Hotel and proposing to construct the Bridge as per the precinct agreement. City Planning has worked with the Applicant, City Divisions and neighbouring property owners to determine the best possible route for the Bridge. After evaluating several options, City Planning Staff advise that the best possible route for the Bridge is the one shown substantially in Attachments 2, 3 and 4.

City Council must now decide if it wishes to pursue obtaining the necessary third party approvals in order to facilitate the construction of the Bridge. Should City Council choose to pursue such third party approvals, the Director of Real Estate Services requires Council direction in order to proceed with negotiations to secure such third party approvals. Finally, Clause 3 of Schedule J-6 explicitly states that the Applicant shall not pay any fees to secure approvals within the City of Toronto's right-of-way. For this reason, Staff recommend that the permit, licensing, service and registration fees be waived for encroachment and licence agreements relating to the Bridge.

Agency Circulation

The report was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in recommendations contained in the report. The Directors of Real Estate Services and Right-of-Way Management have both reviewed the report and agree with the recommendations.

COMMENTS

Required Approvals

Currently the Applicant has identified approval requirements from the following third parties:

- City of Toronto
- 20 York Inc.
- Metropolitan Toronto Convention Centre Corporation (MTCC)
- Metrolinx
- CN Rail
- Toronto Terminal Railway

Although it is not anticipated that further approvals are required, the ownership of the railway lands is complex and this list may not be exhaustive. The Applicant has agreed to assume responsibility for the identification of all third party approvals required. It is anticipated that most of the third parties will be party to the Agreement described in Attachment 5 of this report; however there may be other third parties whose approval will be evidenced through separate documentation, such as an approval from other users of the Skywalk, which could include CN Tower, Rogers Centre and Canada Lands Corporation.

The City will only be pursuing third party approvals identified by the Applicant. The Applicant will be responsible for securing all other approvals and permits required for the construction and use of the Bridge. The City will not be pursuing third party approvals after the date that the City executes the Pedestrian Bridge License Agreement. The Applicant will provide the City with a release and indemnity in favour of the City, in form and substance satisfactory to the City Solicitor, indemnifying and releasing the City from any and all claims resulting from the City pursuing or obtaining third party approvals identified by the Applicant and such an indemnity shall include without limiting the generality of the foregoing any failure by the City to obtain any Applicant identified third party approvals or other approvals or permits required for the construction and use of the Bridge and any disputes, losses, liability or claims arising there from.

Third party approvals for the construction and use of the Bridge are expected to be secured by the City of Toronto at nominal cost to the City. Nominal costs to the City means waived permit, licensing, service and registration fees and Staff time expended in

obtaining third party approvals for the construction and use of the Bridge. If this proves not to be the case, Staff will report back to City Council and seek further direction as to any costs that may be required and if City Council still wishes to pursue the Bridge in

light of those costs. A further report to TEYCC from the Director, Transportation Services, Toronto and East York, will be forthcoming at such time as the Applicant submits its application to Transportation Services.

Metro Toronto Convention Centre

MTCC is situated on lands owned by the City and leased to the MTCC. The proposed location of the Bridge may require an amendment to the lease to permit the use of the portion of the MTCC leased for this purpose.

PATH Connection

The proposed Bridge complies with Official Plan Policies. Specifically, it addresses Section 2.2.1, policy 12 which requires that transportation and mobility be improved in the *Downtown and Central Waterfront* through the expansion of the PATH system and by encouraging new developments to connect to the system.

The Bridge also supports the objectives of the PATH Master Plan which require a connection in this area. The Bridge will support the PATH by finishing the loop from the TELUS Building (25 York Street), to the PWC Building (18 York Street), the Delta Toronto Hotel (120 Bremner Boulevard) and ultimately the SkyWalk. This will allow commuters from Union Station to access the Delta Toronto Hotel directly and give an alternative to the existing PATH connection. The Bridge will also allow conference attendees and guests at the Delta Toronto Hotel to access the Metro Toronto Convention Centre in a weather protected fashion as well as Metrolinx's proposed Pearson Air-Rail Link and other tourist attractions nearby such as the Aquarium and CN Tower.

Streetscape

The PATH Bridge will be improved aesthetically through the provision of public art contributing to the streetscape and public realm. The PATH Bridge will also help screen the railway corridor when looking north on Lower Simcoe Street. This masking of the railway corridor has been completed north and south of the railway at York Street. A pier for the Bridge is required for stability and proposed to be located at the edge of the sidewalk in the City's right-of-way on the west side of Lower Simcoe Street. The Bridge would meet all of the Urban Design Guidelines for the PATH.

Conclusion

The Bridge represents an opportunity to complete an important piece of the PATH system with the private sector bearing the costs of construction and ongoing maintenance. As per the precinct agreement, should City Council elect to pursue the Bridge connection, the City will be required to secure such third party approvals as may be required for the construction and use of the Bridge and such third party approvals are to be obtained by the City at nominal cost to the Applicant. The only anticipated costs to City are foregone

permit, licensing, service and registration fees and Staff time expended in obtaining the required third party approvals.

Should further costs arise Staff will report back to City Council and seek further direction on how to proceed.

CONTACT

Giulio Cescato, Planner

Tel. No. 416-392-0459

Fax No. 416-392-1330

E-mail: gcescat@toronto.ca

SIGNATURE

Gregg Lintern, MCIP, RPP
Director, Community Planning
Toronto and East York District

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ATTACHMENTS

Attachment 1: Site Plan

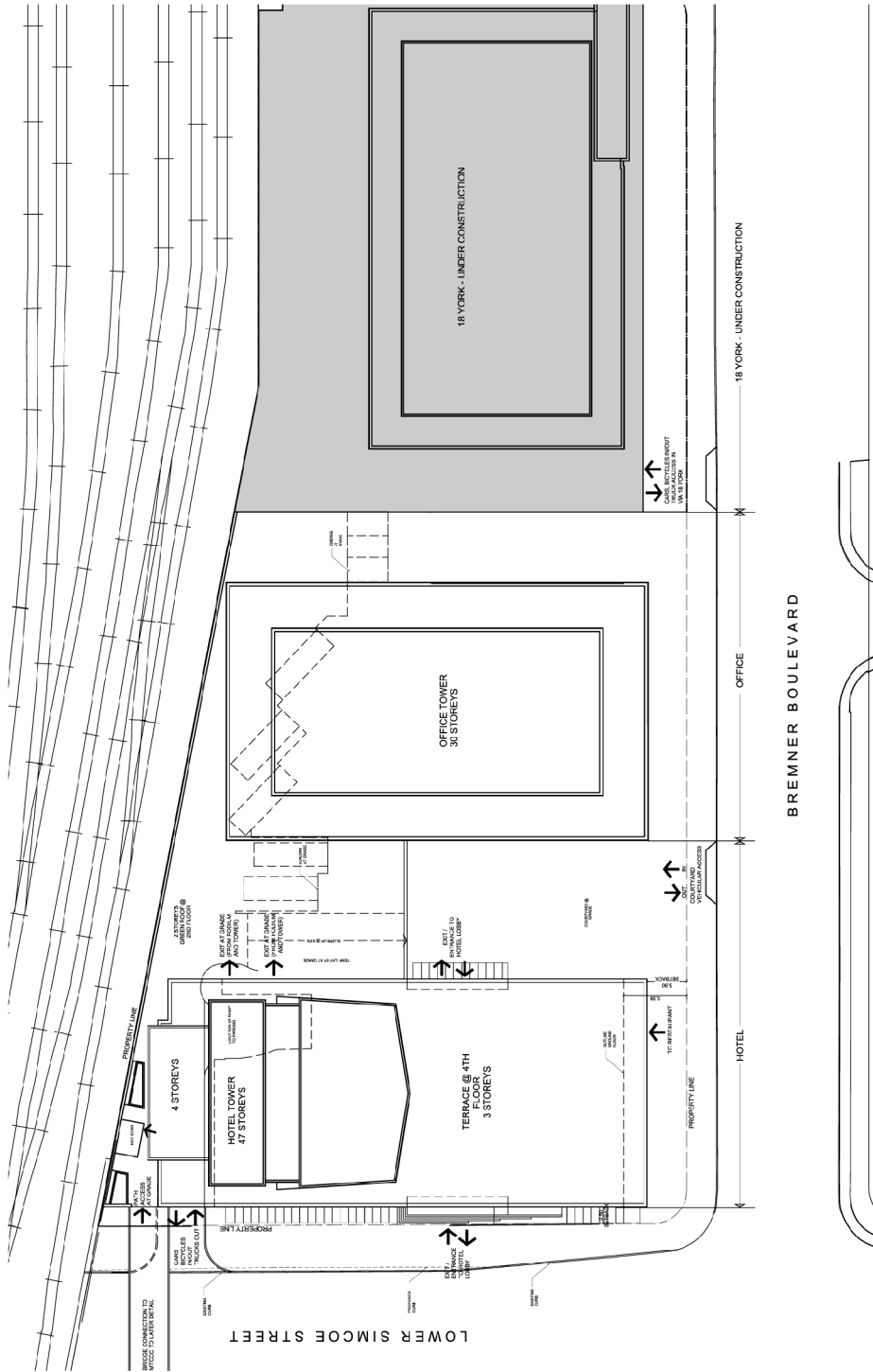
Attachment 2: Lower Simcoe Bridge, Second Floor Plan

Attachment 3: Lower Simcoe Bridge, Third Floor Plan

Attachment 4: South Elevation

Attachment 5: Council Direction to the Director of Real Estate

Attachment 1: Site Plan



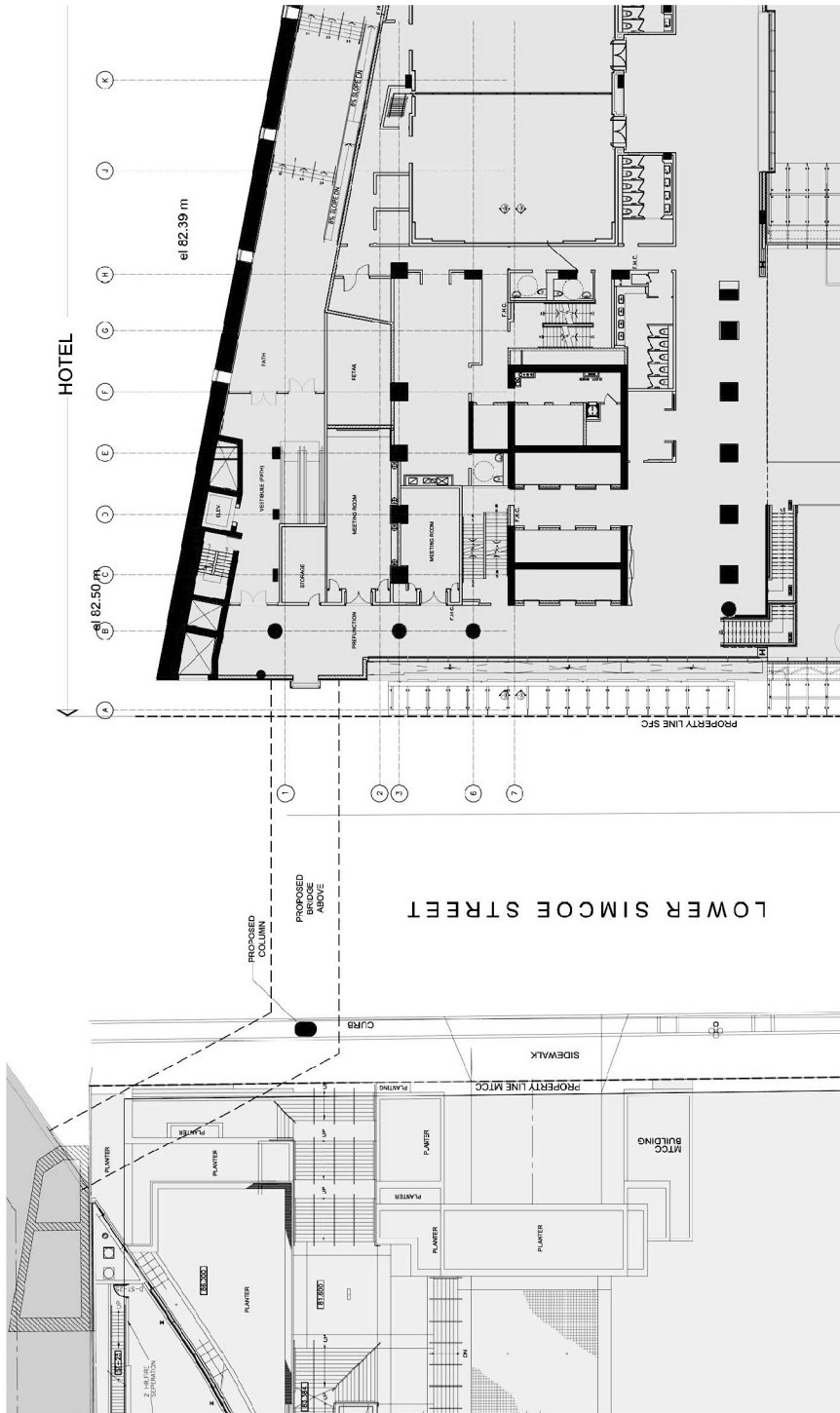
18 York Street (Block 7B)

Site Plan
 Applicant's Submitted Drawing

File # 10_176348

Not to Scale
 05/25/2010

Attachment 2: Lower Simcoe Bridge, Second Floor Plan



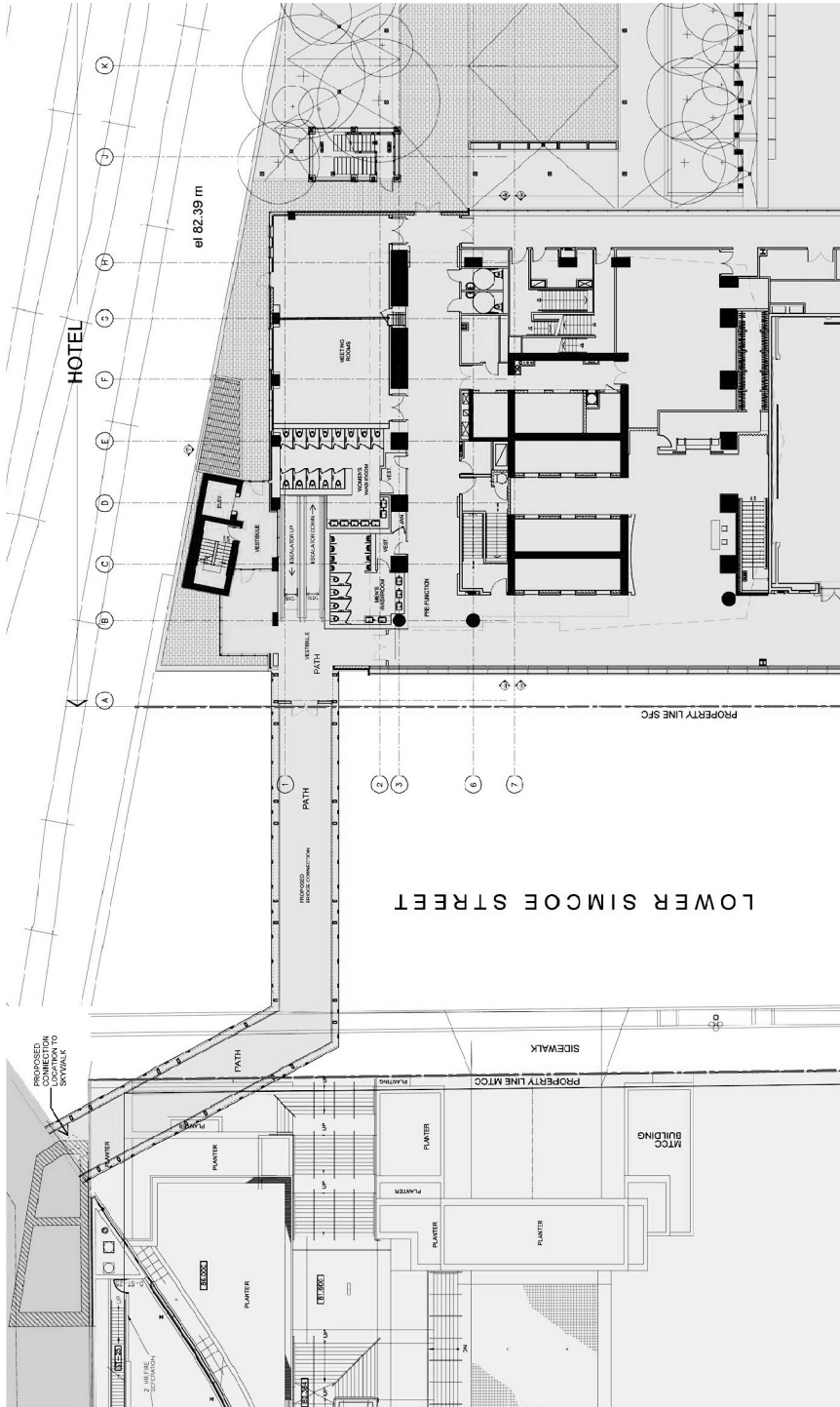
120 Bremner Boulevard

Second Floor Plan
 Applicant's Submitted Drawing

File # 10 189641 SA

Not to Scale
 02/21/2013

Attachment 3: Lower Simcoe Bridge, Third Floor Plan



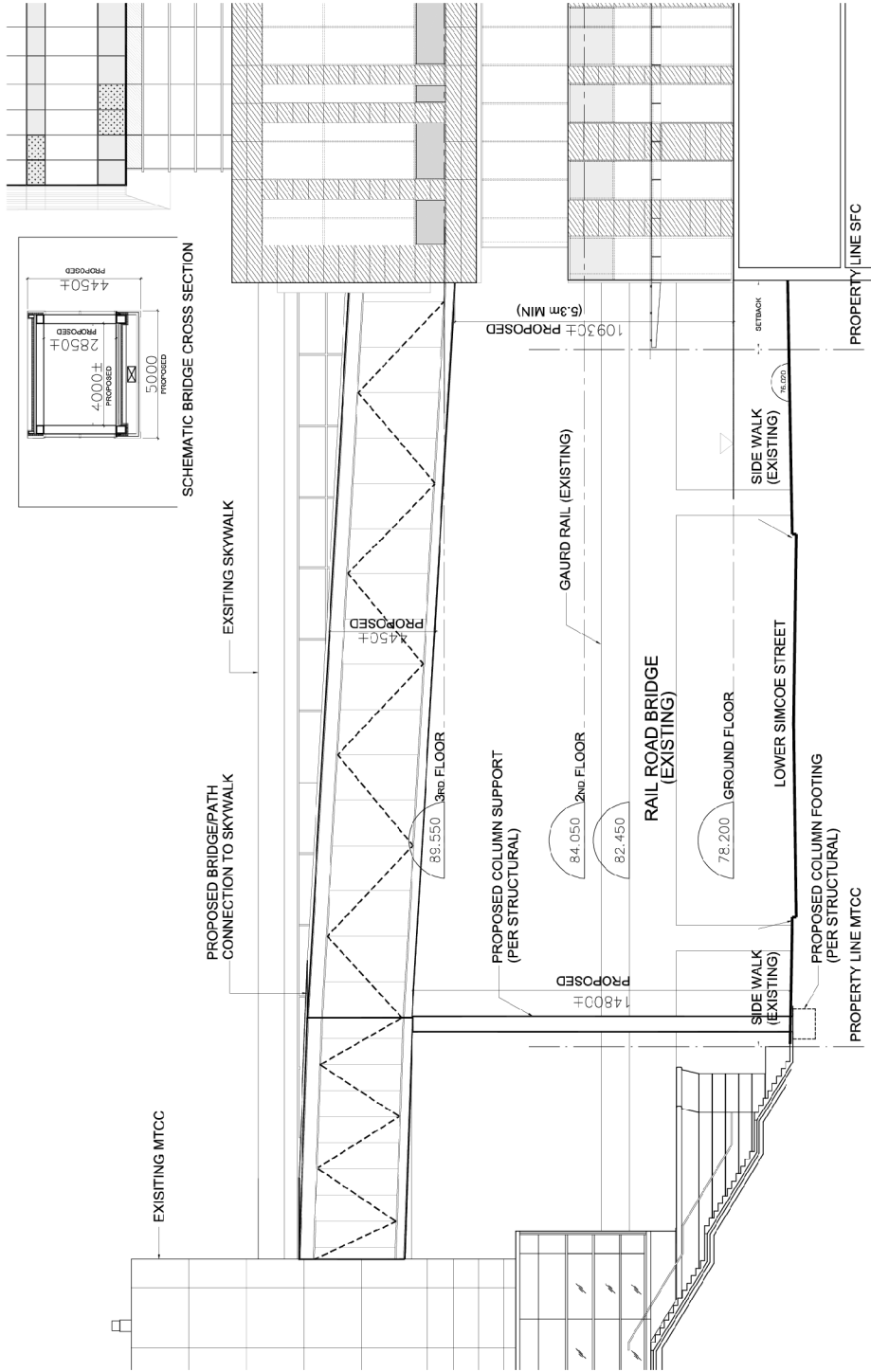
120 Bremner Boulevard

Third Floor Plan
 Applicant's Submitted Drawing

File # 10 189641 SA

Not to Scale
 02/21/2013

Attachment 4: South Elevation



120 Bremner Boulevard

South Elevation
 Applicant's Submitted Drawing

Not to Scale
 02/21/2013

File # 10 189641 SA

Attachment 5: Council Direction to the Director of Real Estate

<p>Parties:</p>	<p>The parties to the PATH Pedestrian Bridge Licence Agreement shall include third parties identified by bcIMC HOLDCO (2007) INC. The following third parties have been identified for the Agreement, subject to confirmation from bcIMC HOLDCO (2007) INC. as to additional or alternative parties:</p> <ul style="list-style-type: none"> • BcIMC HOLDCO (2007) INC. • City of Toronto • 20 York Inc. • Metropolitan Toronto Convention Centre Corporation • Metrolinx • CN Rail • Toronto Terminal Railway
<p>Licensed Area:</p>	<p>The PATH Pedestrian Bridge is proposed to cross Lower Simcoe Street from the hotel being constructed on bcIMC HOLDCO (2007) INC.'s lands at 120 Bremner Boulevard, extend through air space at the MTCC site, and connect with the existing Skywalk over the rail corridor, all in accordance with plans and drawings prepared by bcIMC HOLDCO (2007) INC.'s consultants. The Licensed Area shall include all areas required for the construction, operation and repair and maintenance of the PATH Pedestrian Bridge which areas shall be illustrated on drawings attached to the Agreement.</p>
<p>Nominal Consideration:</p>	<p>BcIMC HOLDCO (2007) INC. shall not pay a connecting fee or any other charge to the City of Toronto or to any third party for the permissions granted by the third parties.</p> <p>Other than nominal costs, the City of Toronto shall not incur any costs in the negotiation of the Bridge Licence Agreement. Nominal costs incurred by the City means waived permit, licensing, service and registration fees and Staff time expended in obtaining third party approvals for the construction and use of the PATH Pedestrian Bridge.</p>
<p>Costs (design, construction, maintenance, operation and repair):</p>	<p>BcIMC HOLDCO (2007) INC. (or its successor) shall be responsible for all costs associated with the design, construction, maintenance, repair and operation of the PATH Pedestrian Bridge.</p>

Term:	The PATH Pedestrian Bridge shall be removed by BcIMC HOLDCO (2007) INC. (or its successor) upon the demolition of the building on BcIMC HOLDCO (2007) INC.'s lands or the demolition of the Skywalk to which the PATH Pedestrian Bridge is connected, whichever first occurs.
Subject to approval from Toronto City Council:	The PATH Pedestrian Bridge encroachment over Lower Simcoe Street is subject to the approval of City Council, and if such encroachment is approved, the PATH Pedestrian Bridge Licence Agreement shall be subject to such terms and conditions as may be approved by City Council.
Other Terms and Conditions:	The Agreement may contain such other terms and conditions acceptable to the Director of Real Estate Services in consultation with the General Manager, Transportation Services and the Chief Planner, provided such additional terms and conditions are without cost to the City of Toronto.