



**STAFF REPORT
ACTION REQUIRED**

Toronto Waterfront Revitalization – West Don Lands Precinct – Surplus Land Declaration and Proposed Closing and Leasing of a Portion of the Un-named Link Road West of Old Brewery Lane, extending between River Street and Bayview Avenue

Date:	August 14, 2007
To:	Toronto and East York Community Council
From:	General Manager, Transportation Services and Chief Corporate Officer
Wards:	Toronto Centre-Rosedale – Ward 28
Reference Number:	Ts07188te.top

SUMMARY

The General Manager, Transportation Services and the Chief Corporate Officer request that the portion of the un-named link road, west of Old Brewery Lane to River Street, be closed and be declared surplus to the City’s requirements. In addition, the Chief Corporate Officer is also requesting authorization to lease the un-named link road to Ontario Realty Corporation as agent for Her Majesty the Queen Right of Ontario.

RECOMMENDATIONS

The General Manager, Transportation Services and the Chief Corporate Officer recommend that Toronto City Council:

1. Permanently close the portion of the un-named Link Road, shown as Part 1 on the attached Sketch No. PS-2006-027a (the “Link Road”) as public highway, upon construction, conveyance to the City and dedication of the new Bayview Avenue extension, subject to compliance with the requirements of City of Toronto Municipal Code Chapter 162;

2. Direct Transportation Services staff to give notice of a proposed by-law to close the Link Road in accordance with the requirements of Chapter 162 of City of Toronto Municipal Code, with the Toronto and East York Community Council to hear any member of the public who wishes to speak to the matter;
3. Declare the Link Road surplus to the City's requirements subject to the retention of a permanent easement in favour of the City for the protection and maintenance of an existing 1650 mm storm sewer, 150 mm water main, 375 mm combined sewer, a 300 mm combined sewer, and that all steps be taken to comply with the City's real estate disposal process as set out in Chapter 213 of the City of Toronto Municipal Code;
4. Direct Ontario Realty Corporation ("ORC"), as agent for Her Majesty the Queen Right of Ontario (the "Province/Tenant") and/or Waterfront Toronto ("WT"), to pay the cost to remove the existing street lighting infrastructure of Toronto Hydro located within the Link Road, with the cost to be determined prior to removal;
5. Direct ORC or WT to pay Toronto Hydro directly and provide the City Solicitor with written confirmation from Toronto Hydro that the cost to remove the street lighting infrastructure has been paid, prior to posting the Public Notice on the City's web site;
6. Authorize the Chief Corporate Officer to negotiate with Toronto and Region Conservation Authority ("TRCA") for the possible disposal of all or part of the Link Road;
7. Authorize the City to enter into a lease agreement to lease the Link Road, once closed, to ORC, as the Province/Tenant, for nominal rent, on the terms and conditions set out in Appendix "A" of this report, and that the lease agreement be in a form satisfactory to the City Solicitor;
8. Authorize the Chief Corporate Officer to administer and manage the lease agreement, including the provision of any consents, approvals, notices and notices of termination, provided the Chief Corporate Officer may, at any time, refer consideration of such matters (including their content) to City Council for its determination and direction; and
9. Authorize the appropriate City officials to take the necessary action to give effect to the foregoing, including the introduction in City Council of any bills necessary to give effect thereto.

Financial Impact

There are no financial implications arising from this report. However, lands for new streets, parks and infrastructure will eventually be conveyed or dedicated to the City for nominal consideration, as part of the subdivision approval process for the West Don Lands Precinct.

The granting of leases, for nominal rent, is in keeping with the principles set out in the report entitled “Governance Structure for Toronto Waterfront Revitalization” approved by City Council in 2004, whereby access to public funds is to be made available on an incremental basis to facilitate implementation of, among other things, the trigovernment approved West Don Lands Precinct revitalization plan.

DECISION HISTORY

On May 17, 18 and 19, 2005, City Council adopted, as amended, Clause 1 of Policy and Finance Committee Report No. 5 entitled “West Don Lands Precinct Plan and Environmental Assessment Master Plan”, thereby endorsing the April 25, 2005 West Don Lands Precinct Plan as a basis for guiding future environmental assessments, development application decisions and contribution agreements with the government partners and TWRC. Council also authorized Toronto Waterfront Revitalization Corporation, now known as Waterfront Toronto (“WT”) to file the March 2005 West Don Lands Class Environmental Assessment Master Plan (the “Master Plan”) in the public record, subject to certain conditions of approval. The Master Plan was approved by the Ministry of the Environment in May 2005. It addressed two road links in the West Don Lands – the River Street extension from King Street East to Bayview Avenue and the Link Road.

In this regard, an “Addendum to the West Don Lands Class Environmental Assessment Master Plan : River Street Extension and Bayview/River Unnamed Connection” (the “Addendum”), was adopted without amendment, by City Council at its meeting of June 27, 28 and 29, 2006, as Clause 3 of Planning and Transportation Committee Report No. 4. In addition, City Council, at its meeting of January 31, February 1 and 2, 2006, adopted without amendment, Motion J(27), thereby authorizing, among other things, the proposed closing and leasing to the Province/Tenant of three public highways and portions of four public highways within the West Don Lands Precinct, to facilitate the development of the West Don Lands Precinct and the Flood Protection Land Form (“FPL”).

During preparation of the required Reference Plan, it was determined that several un-travelled public lanes remained within the West Don Lands Precinct that would need to be closed and leased to the Province/Tenant. In this regard, City Council, at its meeting of June 27, 28 and 29, 2006, adopted without amendment, Clause 87 of Toronto and East York Community Council Report No. 5, authorizing the permanent closure and lease of the un-travelled public lanes to the Province/Tenant.

City Council also declared all of the above-noted public highway and public lanes to be surplus to the City’s requirements and authorized the Chief Corporate Officer to negotiate with WT, ORC, the Province/Tenant and/or TRCA for the ultimate disposal of parts of the highways, on the understanding that title to some parts of the highways and lanes may be conveyed directly to one or more private developers, to be selected in the future.

ISSUE BACKGROUND

Transportation Services received a request from WT to determine the feasibility of permanently closing the Link Road in order to construct the FPL required for the development of the West Don Lands Precinct.

City Council approval is required to permanently close and dispose of public highway lands.

COMMENTS

The Province/Tenant is the majority land owner in the West Don Lands and development will proceed in cooperation with WT and the City. The closure and lease of the Link Road should be dealt with in a similar manner as the highways and lanes referred to in the Background section of this report.

In order to allow the construction of the FPL, it is necessary to close the Link Road by Bylaw and lease it to the Province/Tenant on the same terms and conditions as the lease for the previous highways and lanes, as set out in the attached "Appendix A". Generally, the lease will be at the nominal rent of two dollars (\$2.00) for the entire term, will have a term of five years and will be at no cost to the City. Negotiations can then proceed with TRCA for the ultimate disposal of all or part of the Link Road. The remaining Link Road lands will be transferred to Parks, Forestry and Recreation for incorporation into Don River Park.

Transportation Services staff has reviewed the feasibility of closing the Link Road and has determined that the Link Road can be permanently closed, declared surplus and leased.

The following municipal services are located within the Link Road and will remain in place, pursuant to easements where necessary:

- (i) 1650 mm storm sewer;
- (ii) 375 mm combined sewer;
- (iii) 300 mm combined sewer; and
- (iv) 150 mm watermain

Toronto Hydro has one single and one double light standard and associated infrastructure located within the Link Road that will eventually be removed in order to construct the FLP and Don River Park. The cost to remove these light standards will be the responsibility of ORC or WT.

In order to proceed with the disposal of the Link Road, the City must comply with the procedures governing the disposal of property. City of Toronto Municipal Code Chapter 213 requires that, before selling any property, the property must be declared surplus, notice to the public of the proposed sale be given and at least one appraisal of the market value of the property be obtained, unless exempt from doing so.

The Toronto Humane Society and Watts International, located just north of the Link Road, have raised concerns about potential flooding of their respective properties, as well as the potential for traffic to infiltrate from Bayview Avenue, through to Old Brewery Lane once the Link Road is closed. City staff and TRCA have met with both parties and is working towards a resolution of their concerns.

The requirements of the Municipal Class Environmental Assessment have been met under the Addendum to the West Don Lands Class Environmental Assessment Master Plan: River Street Extension and Bayview/River Unnamed Connection.

CONTACT

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ATTACHMENTS

Appendix "A" – Basic Lease Terms and Conditions Lease of Link Road
Sketch No. PS-2006-027a dated June 15, 2007

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APPENDIX "A"

Basic Lease Terms and Conditions Lease of Link Road

1. Commencement Date: Upon the permanent closure of the Link Road as a public highway
2. Term: Five (5) years, subject to right of early termination by Tenant on prior written notice to the City
3. Basic Rent: Two Dollars (\$2.00) for entire Term, plus any applicable GST
4. Additional Rent: Tenant to be completely responsible for all costs related to the leased lands, including all realty taxes and utilities
5. Use: For the purpose of carrying out site preparation activities, including soil remediation in accordance with the Risk Assessment and Risk Management Plan, once approved, demolition of existing buildings, footings and foundations and construction of the flood protection land form, new roads and services
6. As-is Basis: Tenant to accept condition of leased lands on "as is" basis
7. Assignment: Tenant shall not sublet or assign without the prior written consent of the City, which consent may be unreasonably withheld
8. Insurance: Tenant to maintain Commercial General Liability insurance with a limit of not less than \$5,000,000.00 per occurrence