

Consolidated Clause in Toronto East Community Council Report 5, which was considered by City Council on June 22, 23 and 24, 2004.

16

**Sale of Surplus Portions of the Neilson Road and
Staines Road Road Allowances
(Ward 42 - Scarborough Rouge River)**

City Council on June 22, 23 and 24, 2004, amended this Clause in accordance with the following staff recommendations contained in the Recommendations section of the report dated June 21, 2004, from the Commissioner of Corporate Services:

“It is recommended that:

- (1) Recommendation (1) of Clause 16 of Report 5 of the Toronto East Community Council be amended to provide that authority be granted for the City to accept the Offer to Purchase submitted by the Owners, provided that the Owners first execute an amendment to the Offer to Purchase, satisfactory to the City Solicitor, to delete all references to ‘Sketch No. PS-2004-077’ and to replace them with ‘Sketch No. PS-2004-098’;*
- (2) Recommendations (3), (4) and (5) of Clause 16 of Report 5 of the Toronto East Community Council be amended by deleting all references to ‘Sketch No. PS-2004-077’ and replacing them with ‘Sketch No. PS-2004-098’; and*
- (3) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.”*

Council also considered additional reports/communications, which are noted at the end of this Clause.

The Toronto East Community Council recommends adoption of the report (May 31, 2004) from the Commissioner of Corporate Services.

Purpose:

To authorize the disposal of portions of Neilson Road and Staines Road road allowances (collectively the "Surplus Highways") and to rescind the surplus land declaration for the portion of Neilson Road that is required by the City for one foot reserve purposes.

Financial Implications and Impact Statement:

No financial implications will result from the sale of the Surplus Highways as consideration for the conveyance of the Surplus Highways has already been provided to the City pursuant to the

terms of the Core Servicing Agreement between the City and 554056 Ontario Limited, Mattamy (Neilson) Limited, Mattamy (Staines) Limited, Neilson-Finch Residential Developments Inc., and Trans-Gate Inc. (the "Owners"), dated February 22, 2002. The Chief Financial Officer and Treasurer has reviewed this report and concurs with the financial impact statement.

Recommendations:

It is recommended that:

- (1) the Offer to Purchase the Surplus Highways shown as Part 4 on Sketch No. PS-2003-048, Part 1 on Sketch PS-2004-077, and Parts 1 and 3 on Sketch PS-2003-050, submitted by the Owners for nominal consideration of \$2.00 be accepted on the terms and conditions outlined in the body of this report, and that either one of the Commissioner of Corporate Services or the Executive Director of Facilities and Real Estate be authorized to accept the Offer on behalf of the City;
- (2) the City Solicitor be authorized to complete the transaction on behalf of the City, including payment of any necessary expenses and amending the closing date to such earlier or later date(s) and on such terms and conditions as she may from time to time consider reasonable;
- (3) Recommendation Nos. (7) and (8) of Clause No. 15 of Toronto East Community Council Report No. 2, as adopted by City Council at its meeting held on March 1, 2 and 3, 2004, pursuant to which certain portions of highways were declared surplus to municipal requirements, be rescinded solely as they relate to the portion of the highway shown as Part 4 on Sketch No. PS-2004-077, which Part 4 lands should instead be retained by the City as a one foot reserve under the jurisdiction of the Commissioner of Works and Emergency Services;
- (4) the portions of the one-foot reserve shown as Parts 5 and 6 on Sketch No. PS-2004-077 be declared surplus to municipal requirements and all steps necessary to comply with Chapter 213 of the City of Toronto Municipal Code be undertaken;
- (5) the Commissioner of Corporate Services be authorized to invite offers to purchase the portions of Neilson Road and the one foot reserve shown as Parts 2, 3, 5 and 6 on Sketch No. PS-2004-077 from the abutting property owners to the west; and
- (6) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto, including the introduction in Council of any bills necessary to give effect thereto.

Background:

In February of 1999, the Ontario Municipal Board approved the Morningside Heights Secondary Plan allowing for a residential community of approximately 2500 residential units, related amenities and a 26 hectare business park.

In February of 2002, the City entered into a Core Servicing Agreement with the Owners wherein the Owners agreed to provide and up-front the costs of certain core services (roadways, watermains, sanitary sewers, and storm sewers) to the Morningside Heights community. Works and Emergency Services has advised that the Owners have contributed approximately \$9.7 million in such improvements to the community. Pursuant to the Core Servicing Agreement, the Owners were required to make satisfactory arrangements with the City regarding the Owners' acquisition, for nominal consideration (\$2.00), of portions of certain existing public highways for incorporation as part of the development lands. In the Core Servicing Agreement, the closure of portions of Neilson Road and Staines Road were envisaged.

By its adoption of Clause No. 15 of Report No. 2 of the Toronto East Community Council on March 1, 2 and 3, 2004, City Council: (a) authorized the permanent closure of various portions of public highways; (b) approved the jurisdictional transfer to the Commissioner of Economic Development, Culture and Tourism of certain portions of the highways, with certain other portions of the highways to remain under the jurisdiction of the Commissioner of Works and Emergency Services; (c) declared certain portions of the highways to be surplus to municipal requirements; (d) directed the Commissioner of Corporate Services to attempt to negotiate a land exchange transaction with the abutting owner of the portion of highway shown as Part 1 on Sketch No., PS-2003-045; and (e) authorized the Commissioner of Corporate Services to invite an offer to purchase the portions of the highways shown as Part 4 on Sketch No. PS-2003-048, Part 1 on Sketch No. PS-2003-049 and Parts 1, 3 and 7 on Sketch No. PS-2003-050 from the Owners.

The process with respect to Chapter 213 of the City of Toronto Municipal Code have been complied with, a utility canvass has been completed and certain requirements have been identified, which are detailed below.

Comments:

It was recently determined that the portion of Neilson Road shown as Part 1 on Sketch No. PS-2003-049 could not be disposed of as originally contemplated. Accordingly, a new Sketch (No. PS-2004-077) was prepared. It is now recommended that a new one foot reserve, shown as Part 4 on Sketch No. PS-2004-077, be retained by the City to prevent unauthorized access to the new realigned Neilson Road and that the Owners not be invited to submit an offer to purchase the portions of Neilson Road shown as Parts 2 and 3 on Sketch No. PS-2004-077, as these portions of the highway provide the sole means of vehicular access to the abutting properties to the west. Rather, the abutting property owners to the west should be invited to submit offers to purchase these portions of the highway, together with the portions of the one foot reserve shown as Parts 5 and 6 on Sketch No. PS-2004-077, which will no longer be required once the adjoining portion of Neilson Road is closed and sold.

The Commissioner of Works and Emergency Services advises that Part 7 on Sketch No. PS-2003-050 cannot be disposed of at this time as it is required for public highway purposes until the new Morningside/Finch intersection is constructed. Accordingly, the Owners were not invited to submit an offer to purchase Part 7 at this time. These lands will be dealt with separately at a later date. The Commissioner of Works and Emergency Services also advises that he is satisfied with the site plan approvals which the Owners have already obtained for the

portions of their development which will include the Surplus Highways. Accordingly, it is not necessary to include a site plan approval condition in the Offer to Purchase, as previously contemplated.

Therefore, the Owners have submitted an Offer to Purchase the Surplus Highways on the following terms and conditions:

- (1) the Owners will indemnify the City against all loss, cost damage or action arising as a result of the closing and conveyancing of the Surplus Highways;
- (2) the parties acknowledge and agree that the total value of consideration for the purchase of the Surplus Highways is Two Hundred and Sixty Seven Thousand, Seven Hundred and Fifty Dollars (\$267,750.00), based on a value of \$175,000.00 per acre, which consideration the City acknowledges has already been provided to the City or secured to the City's satisfaction pursuant to the terms of the Core Servicing Agreement;
- (3) the Owners will accept title to the portion of the Surplus Highways shown as Part 1 on Sketch No. PS-2003-050 subject to a sewer easement to be reserved by the City on closing;
- (4) the Owners will either accept title to the Surplus Highways subject to easements to be granted by the City on or prior to closing, to any affected utility companies for the existing utilities plant located on, over, under, in or through the Surplus Highways, on terms and conditions satisfactory to the said utility companies, or the Owners will, with the consent of the said utility companies, pay all of the costs, as determined by the said utility companies, of relocating, removing, adjusting, reconstructing and/or abandoning their respective existing utilities;
- (5) the Owners will accept the Surplus Highways on an "as is" basis and on closing will execute and deliver a release in favour of the City in respect of all loss, cost, damage, liability or actions relating to the environmental condition of the Surplus Highways;
- (6) the Owners will obtain and deposit in the appropriate Land Registry Office, at their sole cost and expense, one or more reference plans of survey integrated with the Ontario Co-ordinate System, satisfactory to the City Surveyor, which delineate the boundaries of the Surplus Highways as one or more separate Parts thereon;
- (7) the Owners will pay the out-of-pocket expenses that will be incurred by the City as a result of closing the public highways comprising the Surplus Highways and the conveyance to the Owners of the Surplus Highways, on the understanding that any out-of-pocket expenses actually incurred by the City and paid for by the Owners will not be refunded in the event that the transaction contemplated herein is not completed;
- (8) closing will take place on the 45th day following the enactment by City Council of a by-law to permanently close the Surplus Highways as public highways, subject to compliance with the requirements of the *Municipal Act, 2001*;

- (9) on closing, the Owners will pay the cost of registering the road closing by-law, the utility easements, if any and any other documents necessary or incidental to the closing of the public highways comprising the Surplus Highways and the conveyance of the Surplus Highways to the Owners; and
- (10) title to the Surplus Highways will be conveyed as follows:

| Sketch | Part | Area | Transferee |
|-------------|------|--|--|
| PS-2003-048 | 4 | 1,531 m ² (16,480 ft ²) | Mattamy (Neilson) Limited |
| PS-2003-050 | 1 | 152 m ² (1,636.2 ft ²) | Part to 554056 Ontario Limited and part to Mattamy (Staines) Limited |
| PS-2003-050 | 3 | 52 m ² (560 ft ²) | Trans-Gate Inc. |
| PS-2004-077 | 1 | 4,468 m ² (48,094.7 ft ²) | Morningside Heights Landowners Group Limited |

Conclusion:

In order to complete the requirements of the Core Servicing Agreement, the transaction detailed herein, which is fair and reasonable, should be approved on the terms and conditions set out in this report.

Contact:

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City Council – June 22, 23 and 24, 2004

Council also considered the following report dated June 21, 2004 from the Commissioner of Corporate Services:

*Subject: Technical Amendment
Sale of Surplus Portions of the Neilson Road and Staines Road Road Allowances
(Ward 42 - Scarborough-Rouge River)*

Purpose:

To recommend a technical amendment to Clause No. 16 of Report No. 5 of the Toronto East Community Council, which is currently before City Council.

Financial Implications and Impact Statement:

No financial implications will result from this technical amendment.

Recommendations:

It is recommended that:

- (1) Recommendation No. (1) of Clause No. 16 of Report No. 5 of the Toronto East Community Council be amended to provide that authority be granted for the City to accept the Offer to Purchase submitted by the Owners, provided that the Owners first execute an amendment to the Offer to Purchase, satisfactory to the City Solicitor, to delete all references to “Sketch No. PS-2004-077” and to replace them with “Sketch No. PS-2004-098”;*
- (2) Recommendations Nos. (3), (4) and (5) of Clause No. 16 of Report No. 5 of the Toronto East Community Council be amended by deleting all references to “Sketch No. PS-2004-077” and replacing them with “Sketch No. PS-2004-098”; and*
- (3) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.*

Background:

City Council has before it Clause No. 16 of Report No. 5 of the Toronto East Community Council, which is a report (May 31, 2004) from the Commissioner of Corporate Services recommending that the City accept the Offer to Purchase certain surplus highways, including the portion of Neilson Road shown as Part 1 on Sketch No. PS-2004-077, that was submitted by 554056 Ontario Limited, Mattamy (Neilson) Limited, Mattamy (Staines) Limited, Neilson-Finch Residential Developments Inc and Trans-Gate Inc. (the “Owners”).

Comments:

Works and Emergency Services staff have recently determined that the portion of Neilson Road shown as Part 1 on Sketch No. PS-2004-077 cannot be closed and sold in its entirety, as a watermain, which must remain on City-owned property, is located in the southerly portion of Part 1 of said Sketch. Accordingly, a new Sketch (No. PS-2004-098) has been prepared, which shows the portion of Neilson Road that can be closed and sold as Part 1 thereon.

The Owners are aware of the change to the southerly boundary of the portion of Neilson Road that can be closed and sold. Their solicitor has advised staff that the Owners will execute an amendment to the Offer to Purchase, satisfactory to the City Solicitor, to delete all references to “Sketch No. PS-2004-077” and to replace them with “Sketch No. PS-2004-098”.

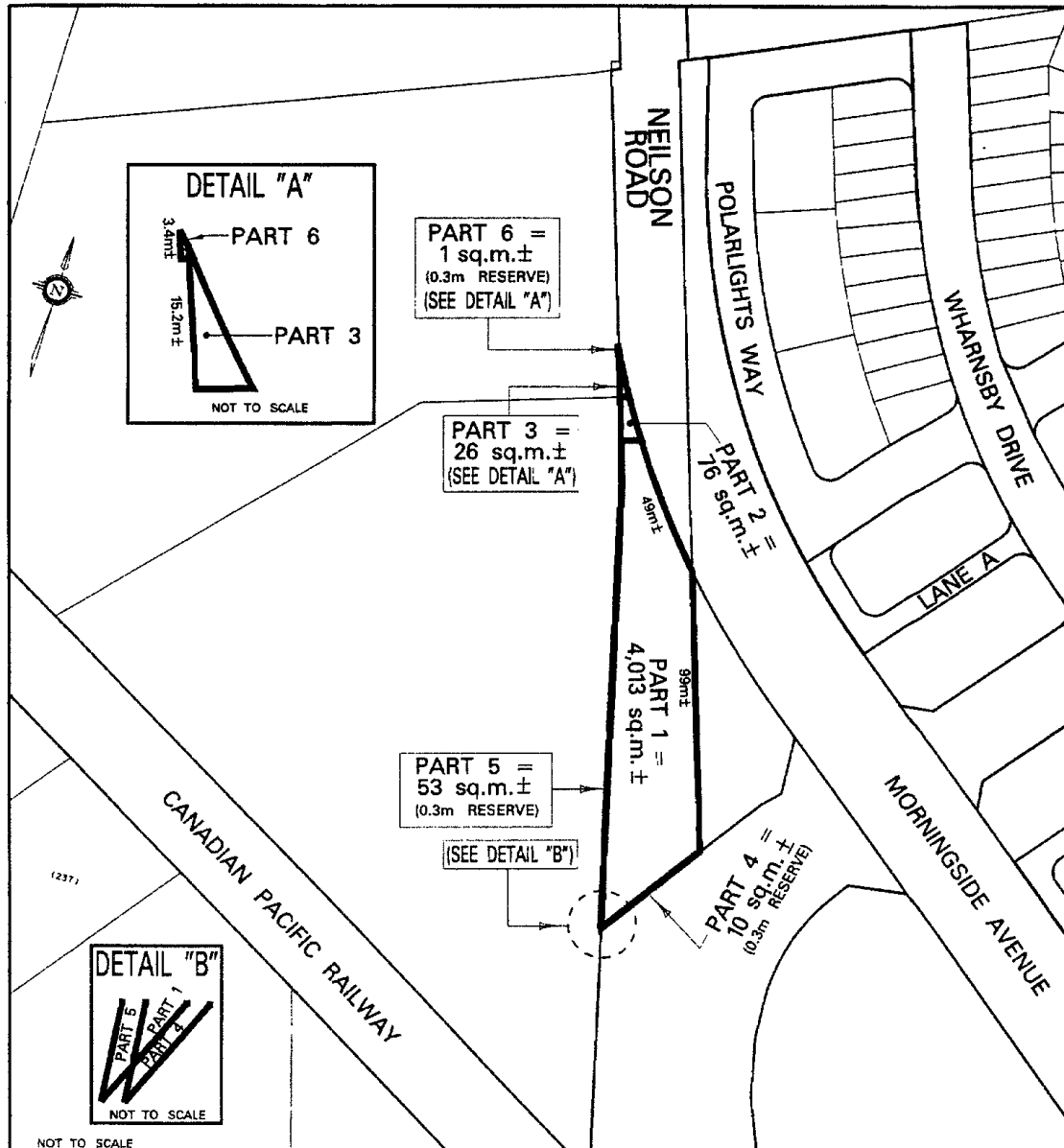
Conclusion:

In order to ensure that the City watermain is protected, it is recommended that Clause No. 16 of Report No. 5 of the Toronto East Community Council be amended as set out herein.

Contact:

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Attachment: *Sketch*



Toronto
WORKS & EMERGENCY SERVICES
TECHNICAL SERVICES DIVISION
SURVEY & MAPPING

NOTE: THIS SKETCH HAS BEEN COMPILED FROM OFFICE RECORDS.