

Downsview East Lands - Release of Restrictive Covenants and Amendment of Easement

Date: June 15, 2021

To: General Government and Licensing Committee

From: Executive Director, Corporate Real Estate Management

Wards: 6 – York Centre

SUMMARY

The purpose of this report is to seek City Council authorization for (i) a mutual release by the City of Toronto (the "City") and PSPIB Downsview Investments Inc. of restrictive covenants which benefit and encumber each other's lands; and (ii) a release of an easement in favour of the City currently registered against the entirety of the lands of PSPIB Downsview Investments Inc. in exchange for a new easement which will encumber only that portion of the PSPIB Downsview Investments Inc. land that is necessary to ensure access by the City.

RECOMMENDATIONS

The Executive Director, Corporate Real Estate Management, recommends that:

1. City Council authorize the registration of a release, by the City, of the restrictive covenants contained in Instrument Number TB914916 registered against title to the lands owned by PSPIB Downsview Investments Inc., legally described as the whole of PIN 10233-1743(LT), in exchange for the registration of a release by PSPIB Downsview Investments Inc. of the restrictive covenants contained in Instrument Number TB433886 registered against title to the Downsview East Lands owned by the City and legally described as the whole of PIN 10213-0291(LT), all on such terms as may be acceptable to the Executive Director, Corporate Real Estate Management, and in a form satisfactory to the City Solicitor.
2. City Council authorize the release of the easement contained in Instrument Number TB914916 in favour of the City which is registered against the entirety of the lands owned by PSPIB Downsview Investments Inc., in exchange for a grant in favour of the City of a replacement easement over that portion of the lands owned by PSPIB Downsview Investments Inc. described as Parts 1 and 2 on the attached Draft

Reference Plan, all on such terms as may be acceptable to the Executive Director, Corporate Real Estate Management, and in a form satisfactory to the City Solicitor.

3. City Council authorize each of the Executive Director, Corporate Real Estate Management, and the Director, Transaction Services, Corporate Real Estate Management, to execute the release of the restrictive covenant benefitting the City, the release of the current easement in favour of the City and the receipt of a grant of a replacement easement in favour of the City including any reasonably necessary ancillary agreements and documents on behalf of the City.

4. City Council authorize the Executive Director, Corporate Real Estate Management, to administer and manage the transactions concerning the release of the restrictive covenant benefitting the City, the release of current easement in favour of the City and the receipt of a grant of a replacement easement in favour of the City, including the provisions of any consents, approvals, waivers and notices provided that he may, at any time, refer consideration of any such matters (including their content) to City Council for its consideration and direction.

FINANCIAL IMPACT

The total financial implications to the City resulting from this report are the cost of title searching and registration fees of approximately \$1,800.00. Funding is available in the 2021 Council Approved Operating Budget for Corporate Real Estate Management under cost center FA3074.

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

DECISION HISTORY

There are no previous City Council decisions respecting this matter.

COMMENTS

Background

PSPIB Downsview Investments Inc. is a federally incorporated company which has acquired the lands commonly known as the Downsview Airport lands, as shown by the hatched area on the sketch in Attachment A (the "PSPIB Lands"). The City owns lands commonly referred to as the Downsview East lands, which are identified by the cross-hatched area on the sketch in Attachment A (the "City Lands").

CreateTO has been tasked with developing the City Lands' 57 acres east of Allen Road, which form part of the Allen East District, one of the seven (7) districts that make up the

City's Downsview Secondary Plan. The mutual release of restrictive covenants by the City and PSPIB Downsview Investments Inc. is a step that facilitates the Allen District development. The final District Plan will be presented at North York Community Council in June 2021.

The PSPIB Lands and the City Lands are burdened with substantially similar restrictive covenants in favour of the other, which limit the construction of buildings upon their respective lands with respect to the potential use of any building and its potential height. These restrictions are contained in Instrument Number TB433886, registered against the City Lands, and in Instrument Number TB914916, registered against the PSPIB Lands.

Rationale for Release of Restrictive Covenants and Easement Amendment

PSPIB Downsview Investments Inc. plans to develop the PSPIB Lands as soon as the remaining runway of the former airport on its site is closed, which is anticipated to happen in the near future. CreateTO is also assessing the opportunity to potentially develop the City Lands for housing and other uses. In order for either party to construct, it is necessary to release the restrictions contained in the registered instruments, which bind their respective lands and limit the use and height of future structures.

Additionally, the entirety of the PSPIB Lands are subject to a broad easement that benefit the City Lands. This easement is contained in Instrument Number TB914916, which provides for the operation, use, construction and repair of "all existing pipelines, communication, refuse, electrical, water, drainage, sewage disposal, mechanical, plumbing, telephone, telegraph, radio, television, cable television, ventilation, air cooling, heating, steam, sprinkler, structural or other services or systems, components or facilities". CreateTO, in consultation with City staff, the Toronto Transit Commission, and the Public Sector Pension Investment Board, has determined that only one (1) drainage pipe is subject to this broad easement in favour of the City. This pipe traverses the PSPIB Lands onto lands owned by the City at the Toronto Transit Commission's Wilson Yard.

PSPIB Downsview Investments Inc. has proposed that the City release the current easement and that it be replaced with a new one covering the portion of the PSPIB Lands which will continue to allow access to the drainage pipe by the City, while not encumbering the entirety of the PSPIB Lands.

City staff consider this proposal to be reasonable and required to enable the potential future development of both the City Lands and the PSPIB Lands.

CONTACT

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Steven Trumper, Chief Executive Officer, CreateTO, 416-981-3817,
strumper@createto.ca

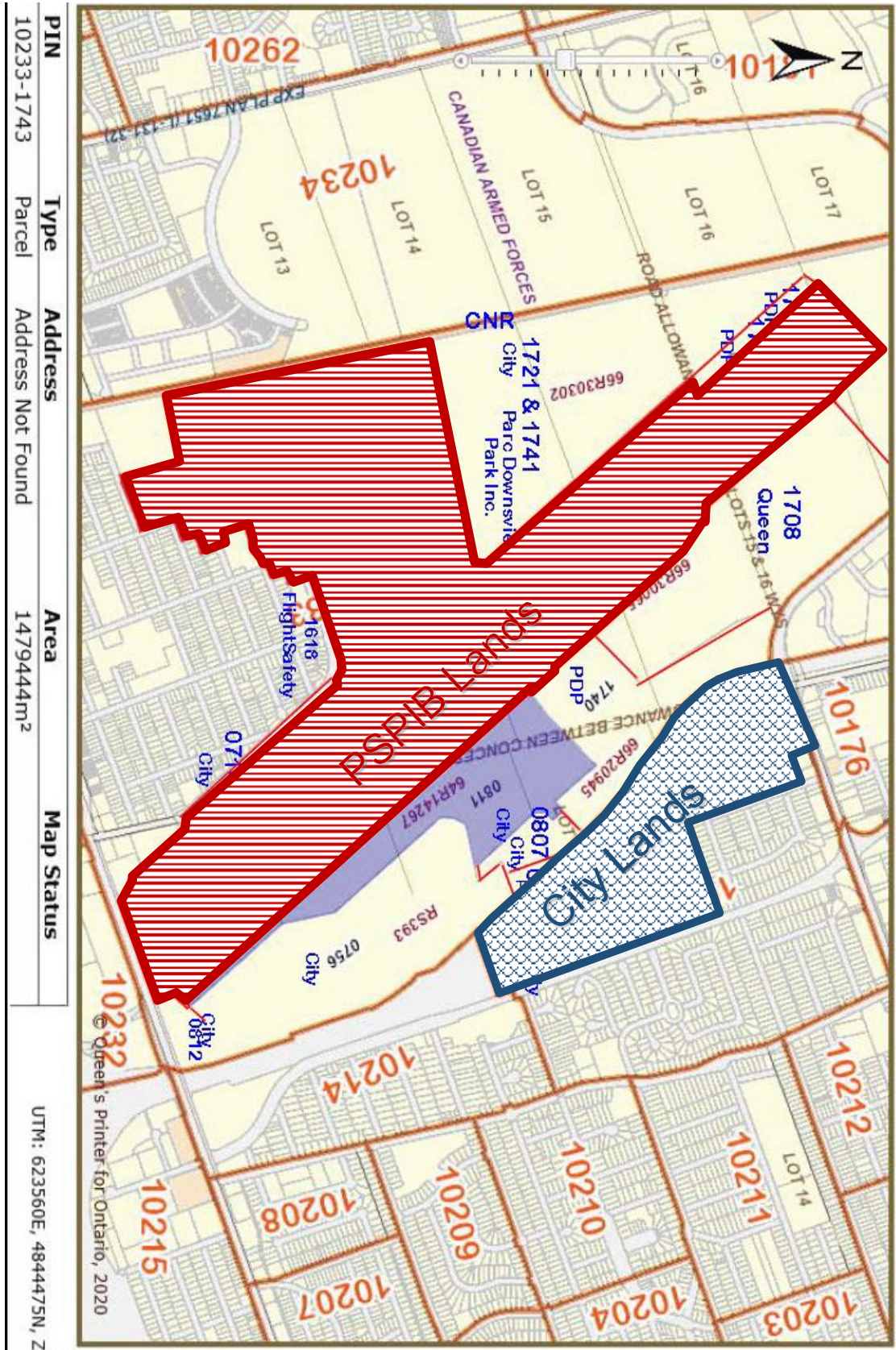
SIGNATURE

Patrick Matozzo
Executive Director, Corporate Real Estate Management

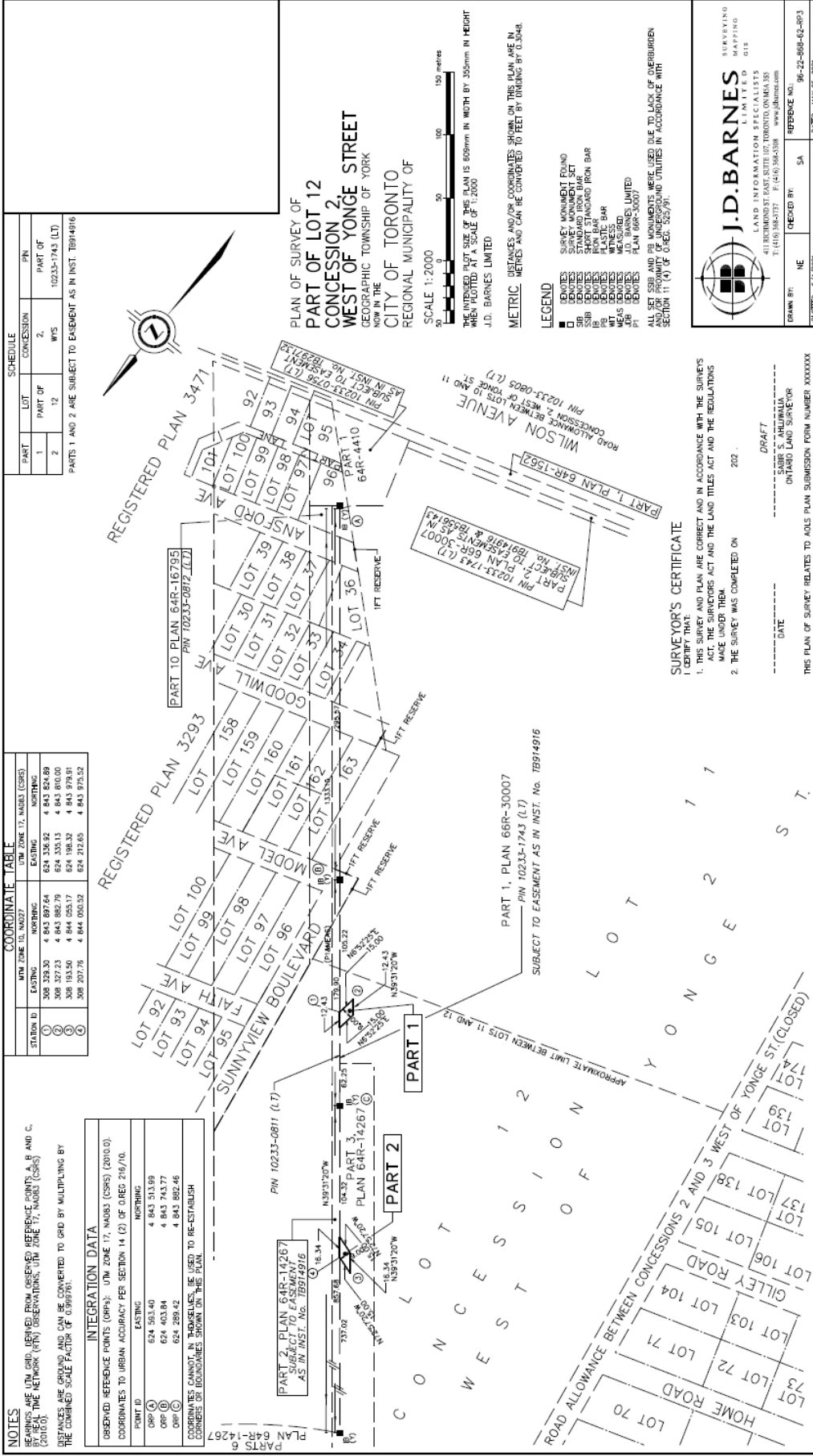
ATTACHMENTS

Attachment A - Sketch showing City Lands and PSPIB Lands
Attachment B - Draft Reference Plan

Attachment A - Sketch showing City Lands and PSPIB Lands



Attachment B - Draft Reference Plan



STATION ID	UTM ZONE 18, NAD83 (CSRS) EASTING	UTM ZONE 18, NAD83 (CSRS) NORTHING
①	508 329.93	4 843 892.64
②	508 327.23	4 843 892.79
③	508 193.50	4 844 055.17
④	508 207.76	4 844 050.32
⑤	508 329.93	4 843 336.82
⑥	508 327.23	4 843 802.09
⑦	508 193.50	4 843 810.09
⑧	508 207.76	4 843 978.91
⑨	508 329.93	4 843 975.52

NOTES
 BEARINGS ARE UTM GRID, DERIVED FROM OBSERVED REFERENCE POINTS A, B AND C. THE NETWORK (NPN) OBSERVATIONS, UTM ZONE 17, NAD83 (CSRS) (2010.0).
 REFERENCE ARE GROUND AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY THE CORRECTED SCALE FACTOR OF 0.999781.
 COORDINATES CANNOT BE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THE PLAN.

POINT ID	EASTING	NORTHING
ORP ①	624 583.40	4 843 513.99
ORP ②	624 403.84	4 843 743.77
ORP ③	624 259.42	4 843 582.46

PART	LOT	CONVESSION	PIN
1	12	WYS	10233-1743 (LT)
2	2	WYS	10233-1743 (LT)

PARTS 1 AND 2 ARE SUBJECT TO EASEMENT AS IN INST. T8914916

PLAN OF SURVEY OF
PART OF LOT 12
CONVESSION 2,
WEST OF YONGE STREET
 GEOGRAPHIC TOWNSHIP OF YORK
 NOW IN THE
 CITY OF TORONTO
 REGIONAL MUNICIPALITY OF

SCALE 1:2000

THE INTENDED PLOT SIZE OF THIS PLAN IS 600mm IN WIDTH BY 350mm IN HEIGHT WHEN PLOTTED AT A SCALE OF 1:2000

J.D. BARNES LIMITED

- LEGEND**
- IDENTIC SURVEY MONUMENT FOUND
 - SIB IDENTIC STANDARD IRON BAR
 - IB IDENTIC IRON BARR
 - IB IDENTIC IRON BARR AND IRON BAR
 - PL IDENTIC PLASTE BAR
 - MEAS IDENTIC MEASURED
 - APB IDENTIC J.D. BARNES, LIMITED
- ALL SET SEES AND PER MONUMENTS WERE USED DUE TO LACK OF OVERBURDEN AND/OR PROXIMITY OF UNDERGROUND UTILITIES IN ACCORDANCE WITH SECTION 11 (4) OF REG. 525/91.

J.D. BARNES
 SURVEYING
 LIMITED
 LAND INFORMATION SPECIALISTS
 MAPPING
 GIS

1111 SHEPPARD AVENUE EAST
 TORONTO, ONTARIO M2X 1L2
 T: (416) 584-3377 F: (416) 584-3358
 www.jdbarnes.com

GRABBY: NE HEADBY: SA REFERENCE NO.: 96-22-898-42-RP-3
 PLOTTED: 6/17/2021 DATED: MAY 25, 2021

SURVEYOR'S CERTIFICATE

I CERTIFY THAT

- THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
- THE SURVEY WAS COMPLETED ON 202 202

DATE _____

DRAFT

ON-BEHALF OF SURVEYOR

THIS PLAN OF SURVEY RELATES TO AOLS PLAN SUBMISSION FORM NUMBER XXXXXXXX

FILE: G:\184-22-868\184-22-868-42-RP-3.rpt