

Clause embodied in Report No. 11 of the Planning and Transportation Committee, as adopted by the Council of the City of Toronto at its meeting held on November 6, 7 and 8, 2001.

3**Parc Downsview Park Inc. Operating Protocol Agreement
File UD03 PDP (Ward 9 - York Centre)**

(City Council on November 6, 7 and 8, 2001, amended this Clause by striking out the recommendation of the Planning and Transportation Committee and inserting in lieu thereof the following:

“It is recommended that:

*‘**WHEREAS** the Government of Canada, in the spirit of co-operation between various levels of government, fully participated with the City of Toronto in the planning process which culminated in creation of the Downsview Lands Secondary Plan (OPA 464); and*

***WHEREAS** the Government of Canada, through the Department of National Defence (DND), subsequently constructed a new Armoury Building on lands within the Downsview Lands Secondary Plan, without reference to the existing City of Toronto building permit process; and*

***WHEREAS** Parc Downsview Park (PDP), a federal crown agency with a 999-year lease of the Downsview Lands, proposes to develop the lands in a manner other than that established through OPA 464, and is already permitting uses of the lands within the Downsview Lands Secondary Plan not contemplated by OPA 464; and*

***WHEREAS** PDP now wishes to establish a different relationship with the City of Toronto in respect of land use and development, servicing and operating and maintenance of the lands within the Downsview Lands Secondary Plan; and*

***WHEREAS** it is critical at this juncture to determine, to the satisfaction of the City of Toronto, the issues raised by PDP, including land use and development, servicing and operating and maintenance of the lands within the Downsview Lands Secondary Plan;*

NOW THEREFORE BE IT RESOLVED THAT:

- (1) *City Council establish an ad hoc PDP Operating Protocol Committee to address issues relating to the lands within the Downsview Lands Secondary Plan, including land use and development, servicing and operating and maintenance of the lands within the Downsview Lands Secondary Plan;*
- (2) *the PDP Operating Protocol Committee be comprised of Councillors Augimeri, Feldman, Li Preti and Moscoe;*
- (3) *the PDP Operating Protocol Committee be directed to meet with the PDP Board of Directors;*
- (4) *the Commissioners of Urban Development Services and Works and Emergency Services be directed to report jointly on the measures available to the City to encourage compliance by PDP and DND with OPA 464, with respect to development of the Downsview Lands (including the DND lands) within the area of the Secondary Plan;*
- (5) *the Acting Chief Financial Officer and Acting Treasurer be directed to report on all payments made by PDP and the DND as cash-in-lieu payments, including any payments made in connection with construction of the new Armoury Building located on the DND lands;*
- (6) *the Commissioner of Works and Emergency Services be directed to report:*
 - (a) *on the mechanisms by which the new road located within the Downsview Lands Secondary Plan was created and to review and provide a safety analysis of the road design; and*
 - (b) *on the necessity of continuing to maintain the current traffic intersection signals located at Yukon Lane and Sheppard Avenue West in their present configuration;*
- (7) *any future request from PDP or DND for any municipal services, approvals or consents (including applications for municipal consent to the issuance of a liquor licence) be directed to the PDP Operating Protocol Committee for review;*
- (8) *the recommendations contained in the joint report dated July 31, 2001, from the Commissioner of Urban Development Services, the Commissioner of Works and Emergency Services and the City Solicitor, be deferred; and*
- (9) *all reports requested be submitted to the Economic Development and Parks Committee and the Planning and Transportation Committee.’ ”)*

(City Council on October 2, 3 and 4, 2001, deferred consideration of this Clause to the next regular meeting of City Council scheduled to be held on November 6, 2001, and, in the interim, requested the Commissioner of Works and Emergency Services and the City Solicitor to meet with Members of Council representing Wards in the surrounding area (Councillors Augimeri, Feldman, Li Preti and Moscoe), in order to review this matter further, prior to its consideration by City Council.)

The Planning and Transportation Committee recommends the adoption of the following joint report (July 31, 2001) from the Commissioner of Urban Development Services, the Commissioner of Works and Emergency Services and the City Solicitor:

Purpose:

The purpose of this report is to seek Council direction to enter into discussions regarding the establishment of an operating protocol agreement with Parc Downsview Park Inc., a crown corporation set up to administer federal lands within the Downsview Secondary Plan area.

Financial Implications:

There are no financial implications resulting from this report. Any financial implications arising from discussions regarding an operating protocol agreement will be subject to Council review.

Recommendations:

It is recommended that:

- (1) the Commissioner of Urban Development Services, the Commissioner of Works and Emergency Services and the City Solicitor establish a Steering Committee of relevant City staff to enter into negotiations with Parc Downsview Park Inc. and, if appropriate, the Department of National Defense, regarding an operating protocol agreement respecting land use, development and municipal servicing for relevant lands within the Downsview Area Secondary Plan; and
- (2) the Commissioner of Urban Development Services, the Commissioner of Works and Emergency Services, Chief Financial Officer and Treasurer or the City Solicitor, as the case may, be report back on this matter to the appropriate Standing Committee(s) of Council when negotiations have significantly advanced.

Background:

The Downsview Area Secondary Plan is a planning area of 534 hectares (1,320 acres) located in the north central part of Toronto (See Map 1 attached). The Secondary Plan area includes the former CFB Toronto (Downsview) lands, the City-owned lands at the south-east corner of Allen Road and Sheppard Avenue West, and the Bombardier/ de Havilland plant and runway.

To administer those lands under federal ownership, excluding those lands maintained by the Department of National Defense (DND), Parc Downsview Park Inc. (PDP) was established as a crown corporation with a 999 year lease with the federal government to develop, operate and maintain Downsview Park. Those lands under the jurisdiction of PDP are highlighted on Map 1 attached hereto. Those lands being maintained by DND are identified by the G-INS (General Institutional) land use designation on Map 1 attached hereto.

On October 18, 2000, the solicitor for PDP made a presentation to City staff regarding a proposed operating protocol agreement for the PDP lands. Since that time, City staff and PDP representatives have had only preliminary discussions to identify and discuss those matters of inter-jurisdictional interest that may arise through the development and administration of the lands and that would form part of an operating protocol agreement.

On May 30, 2001, PDP through their solicitors submitted a letter to the City advising that they wish to enter into negotiations towards establishing an operating protocol agreement with the City. A copy of their May 30, 2001 letter, their February 21, 2001 discussion paper and their October 18, 2000 presentation material is included as Attachment 2 to this report.

Comments:

The Downsview Area Secondary Plan was prepared and approved through the municipal planning process, with the support and participation of the federal government and with extensive public consultation. It is expected that the implementation of the Secondary Plan would occur utilizing the existing municipal process under the Ontario Planning Act, Environmental Assessment Act, and Municipal Act.

PDP has indicated their desire to proceed with the development, operation and maintenance of their lands under a separate legal and planning framework, and would like to model an operating protocol agreement on those in place for other federal projects. The Greater Toronto Airport Authority, Calgary Airport Authority, Town of Banff and National Capital Commission agreements have been presented as examples. The key characteristics of these examples are that they underscore federal jurisdiction over the lands and land use/ development process; and, they establish a separate process for development and improvement of the lands rather than using the existing municipal planning process.

In their presentation to City staff, PDP proposed that a Federal plan establish the framework for land use, and that regard be had to OPA 464. City staff advised of their preference to proceed with the development of the lands through the current municipal planning process and, in the event of a disagreement, that the City pursue dispute resolution through normal channels available under the Ontario Planning Act.

Based on discussions between City staff and PDP a number of potential key components of a municipal-federal operating protocol agreement are summarized below and represent the status of very preliminary discussions between City and PDP. These status comments identify the starting point for discussion.

(1) Land Use and Development

The agreement should address the status of the Downsview Area Secondary Plan (OPA 464) and the process for making decisions on development in the area, including the role of the public in that process. The municipal development process under the Ontario Planning Act includes Official Plan and Zoning By-law Amendments, Plans of Subdivision, Site Plans, Minor Variances, Consents, as well as matters related to the administration and enforcement of the Ontario Building Code.

(2) Public Infrastructure and Servicing

Public infrastructure includes roads, water and sanitary sewer services as well as any utilities supplied by the City. Matters to be addressed in an operating protocol agreement include the ownership and operation of public roads and services internal to the site, the provision of services to the lands in accordance with municipal standards, the connection of services to the existing infrastructure, and the ownership, operation, maintenance and liability for on-site infrastructure.

PDP has indicated that they want to have jurisdiction over the ownership, operation and maintenance of infrastructure on their lands. Staff have indicated that public roads and services is an important issue for the City and, as such, a preference to retain municipal ownership of public infrastructure as a means to ensure establishment, operation and maintenance in accordance with City standards.

(3) Other Services

Matters to be considered as part of the establishment of an operating protocol agreement include the provision of emergency services to the lands (fire, police and ambulance) as well as community services.

(4) Financial Considerations

It is the City's position that the City continue to receive payment in lieu of taxes and/ or tax revenue at a level not to exceed the current level. As well, whatever development takes place on the lands, the cost of providing municipal services is to be funded by development charges or another mechanism. Given the financial issues to be considered as part of the negotiations on an operating protocol agreement, it is recommended that the Chief Financial Officer, or designate, sit on the staff Steering Committee.

(5) Dispute Resolution

In order to deal with those instances where the City of Toronto and the federal government disagree on changes to the plan, or where a third party is in disagreement, a dispute resolution process needs to be available.

(6) Jurisdiction

The way in which any decision making model recognizes and respects Council's concerns and general jurisdiction over land use and planning and other matters needs to be addressed.

It is the position of PDP which, appears to be supported by current decisions of the courts (ex. the 2000 Ontario Court of Appeal case of G.T.A.A. v. City of Mississauga), that the Federal Government/PDP as the owner of the lands has sole jurisdiction over the development, management and operation of those lands.

Unless the Federal Government/PDP waives its crown immunity relating to its jurisdiction over those lands, the municipality is not, under existing provincial legislation, generally able to control or curtail the development, management or operation of the lands by PDP.

To the extent that the Federal Government/PDP recognizes the interests and concerns of the City with respect to appropriate land use, infrastructure and public services, it appears that the position of the Federal Government/PDP is that such a protocol agreement will recognize and address the City's concerns by use of a different governance and decision making model.

Conclusions:

PDP has advised that they wish to enter into negotiations with the City to establish an operating protocol agreement for those lands within the Downsview Area Secondary Plan which are under their jurisdiction.

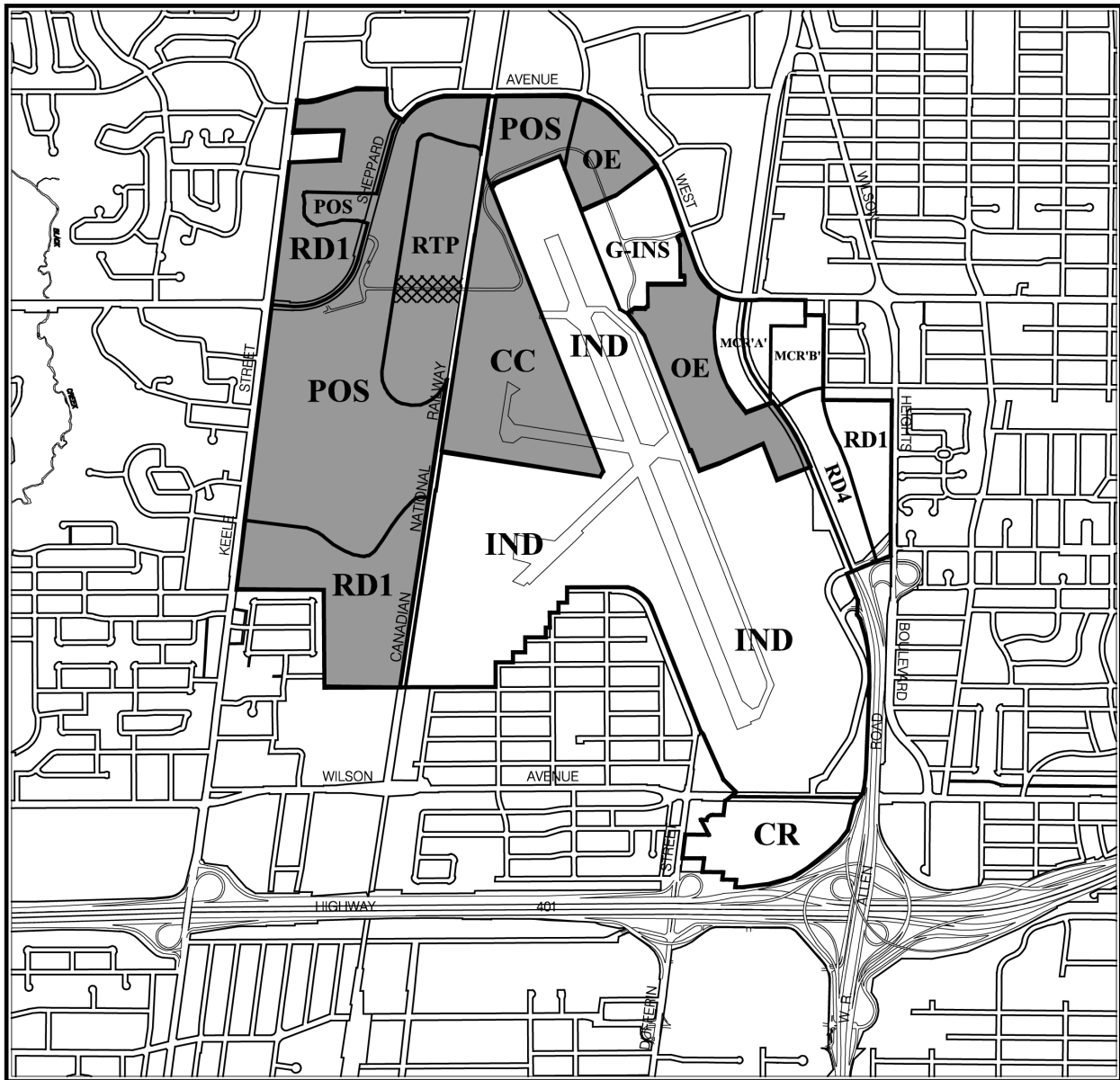
This report seeks authorization to establish a Steering Committee of City staff for the purpose of negotiating an operating protocol agreement for those federal lands under the jurisdiction of PDP and, if appropriate, DND. Staff will report back to the Planning and Transportation Committee or such other Standing Committee(s) of Council as may be appropriate when negotiations have significantly advanced.

Contact Name:

Susan Smallwood, Manager
North York Civic Centre
Telephone: (416) 395-7120
Fax: (416) 395-7155
E-mail: ssmallwo@city.toronto.on.ca

Attachment 1

Map1



Amendment to Map C.1

<p>File No.: UD03 - DNL Prepared by: T. A. Approved by: P. B. Date: APRIL 12 / 01 Filename: OP-267C</p>	<table border="0"> <tr> <td>RD1 - Residential Density One</td> <td>POS - Park and Open Space</td> </tr> <tr> <td>RD4 - Residential Density Four</td> <td>CC - Cultural Campus</td> </tr> <tr> <td>IND - Industrial</td> <td>RTP - Research Technology Park</td> </tr> <tr> <td>G-INS - General Institutional</td> <td>MCR'A' - Mixed Commercial Residential 'A'</td> </tr> <tr> <td>CR - Commercial Retail</td> <td>MCR'B' - Mixed Commercial Residential 'B'</td> </tr> <tr> <td>OE - Office and Entertainment</td> <td></td> </tr> </table>	RD1 - Residential Density One	POS - Park and Open Space	RD4 - Residential Density Four	CC - Cultural Campus	IND - Industrial	RTP - Research Technology Park	G-INS - General Institutional	MCR'A' - Mixed Commercial Residential 'A'	CR - Commercial Retail	MCR'B' - Mixed Commercial Residential 'B'	OE - Office and Entertainment		<p>TORONTO City Planning Division North District</p> <p>SCALE: 0m 100 200 300 400 500 600</p> <p style="text-align: center;">SUBJECT PROPERTY</p>
RD1 - Residential Density One	POS - Park and Open Space													
RD4 - Residential Density Four	CC - Cultural Campus													
IND - Industrial	RTP - Research Technology Park													
G-INS - General Institutional	MCR'A' - Mixed Commercial Residential 'A'													
CR - Commercial Retail	MCR'B' - Mixed Commercial Residential 'B'													
OE - Office and Entertainment														
<p>Location: Source: Official Plan, By-Law, Lot Line, Street Line and Street Name Data - North York Planning Department. Street lines represent street dedications / road allowances and do not represent actual as-built curb lines of streets.</p>														

Attachment 2 referred to in the foregoing report was forwarded to all Members of Council with the agenda of the Planning and Transportation Committee for its meeting on September 11, 2001, and a copy thereof is on file in the office of the City Clerk, City Hall.

(Mayor Lastman, at the meeting of Council held on October 2, 3 and 4, 2001, declared an interest in the foregoing Clause, only as it relates to the land east of Allen Road and south of Sheppard Avenue, in that his son owns property within the subject area.)

(Mayor Lastman, at the meeting of Council held on November 6, 7 and 8, 2001, declared an interest in the foregoing Clause, only insofar as it pertains to the land east of Allen Road and south of Sheppard Avenue, in that his son owns property within the subject area.)