

NOTICE OF MOTION

Toronto Waterfront Revitalization - West Don Lands Precinct - Surplus Land Declaration and Proposed Closing and Leasing of Three Public Highways and Portions of Four Public Highways; Leasing of Four Parcels of City-Owned Property Located within the Precinct and Leasing of 33 St. Lawrence Street (Ward 28 – Toronto Centre-Rosedale)

Moved by: Councillor McConnell

Seconded by: Councillor Mihevc

“**WHEREAS** on May 30, 31 and June 1, 2001, City Council approved a governance structure for the Toronto Waterfront Revitalization Corporation (‘TWRC’) to undertake four priority projects and the project planning for a revitalization of the Toronto Waterfront; and

WHEREAS on July 20, 21 and 22, 2004, City Council adopted Policy and Finance Committee Report 6, Clause 14, thereby approving, among other matters, that the flood protection land form be a first priority in the redevelopment of the West Don Lands; and

WHEREAS on November 30, December 1 and 2, 2004, City Council adopted, as amended, Policy and Finance Committee Report 9, Clause 1, headed ‘ Governance Structure for Toronto Waterfront Revitalization’, thereby, among other matters, approving the concept that control of public lands should be transferred to TWRC on a precinct by precinct basis, or for individual projects, on a parcel by parcel basis, following completion of a Business and Implementation Strategy for the precinct or project that is satisfactory to the three governments; and

WHEREAS on May 17, 18 and 19, 2005, City Council adopted, as amended, Policy and Finance Committee Report 5, Clause 1, thereby endorsing the April 2005 West Don Lands Precinct Plan and the March 2005 West Don Lands Class Environmental Assessment Master Plan; and

WHEREAS on September 28, 29 and 30, 2005, City Council adopted Policy and Finance Committee Report 8, Clause 2, headed ‘Implementation of a New Governance Structure for Toronto Waterfront Renewal’, thereby endorsing certain proposed amendments to the *Toronto Waterfront Revitalization Corporation Act, 2002* that would allow the TWRC to act as an agent for the City or the Province with responsibility for implementing the Toronto Waterfront renewal, including environmental remediation and management; and

WHEREAS applications for subdivision, zoning amendments and lifting the ‘H’ have been submitted and are being reviewed by the City; and

WHEREAS staff of TWRC and the Ontario Realty Corporation have advised that they are now in a position to commence the hoarding of the lands required for the flood protection land form; and

WHEREAS the General Manager, Transportation Services, and the Chief Corporate Officer have submitted a report (January 30, 2006) to Council recommending that three public highways and portions of four public highways be declared surplus and be closed and leased, and recommending that four parcels of City-owned property located within the Precinct and 33 St. Lawrence Street be leased, on the terms and conditions set out in such report; and

WHEREAS it is necessary that Council consider this matter immediately, to avoid delaying the project, as the hoarding of the public streets and City-owned properties is scheduled to begin on February 10, 2006;

NOW THEREFORE BE IT RESOLVED THAT City Council give consideration to the report (January 30, 2006) from the General Manager, Transportation Services, and the Chief Corporate Officer, entitled ‘Toronto Waterfront Revitalization - West Don Lands Precinct - Surplus Land Declaration and Proposed Closing and Leasing of Three Public Highways and Portions of Four Public Highways; Leasing of Four Parcels of City-Owned Property Located Within the Precinct and Leasing of 33 St. Lawrence Street’, and that the staff recommendations contained in the Recommendations Section of the report be adopted;

AND BE IT FURTHER RESOLVED THAT the necessary provisions of Chapter 27 of the City of Toronto Municipal Code be waived to permit introduction and debate of this Notice of Motion at the meeting of Council on January 31, 2006.”

February 1, 2006

Attachment

According to Chapter 27 of the Municipal Code, the foregoing Notice of Motion:

Notice was previously given	
Meets Municipal Code provisions and only requires a simple majority to introduce and debate	
Requires two-thirds to waive notice	(√)
Requires two-thirds to re-open	
Fiscal Impact Statement provided	*
Should have Fiscal Impact Statement prior to debate	*
Requires two-thirds to waive requirement if Council wishes to debate	
Should be referred to the Policy and Finance Committee	(√)
Requires two-thirds to waive referral if Council wishes to debate	
Recommendations are time sensitive	(√)

* Deputy City Manager and Chief Financial Officer to advise.

TORONTO STAFF REPORT

January 30, 2006

To: City Council

From: General Manager, Transportation Services and
Chief Corporate Officer

Subject: Toronto Waterfront Revitalization - West Don Lands Precinct
Surplus Land Declaration and Proposed Closing and Leasing of Three Public
Highways and Portions of Four Public Highways; Leasing of Four Parcels of
City-Owned Property Located Within the Precinct and Leasing of 33 St.
Lawrence Street
(Ward 28 - Toronto Centre-Rosedale)

Purpose:

To recommend that Water Street, Overend Street and Cypress Street and portions of Bayview Avenue, Eastern Avenue, Front Street East and Mill Street be permanently closed and declared surplus to municipal requirements and authority be granted to negotiate with the Toronto Waterfront Revitalization Corporation ("TWRC"), Ontario Realty Corporation ("ORC"), Her Majesty the Queen in Right of Ontario (the "Province") and/or Toronto and Region Conservation Authority ("TRCA") for the possible disposal of the closed highways, on the understanding that there is a possibility that title may be conveyed directly to one or more private developers, to be selected in the future, to facilitate redevelopment of the West Don Lands Precinct.

To secure approval of a lease agreement, at nominal consideration, with ORC as agent for the Province (the "Tenant"), for the closed highways, for four parcels of City-owned property within the Precinct and for a parcel of City-owned property known municipally as 33 St. Lawrence Street, to facilitate the construction of the West Don Lands Flood Protection Land Form and the redevelopment of the West Don Lands Precinct.

Financial Implications and Impact Statement:

There are no financial implications arising from this report. However, land 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 the 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 lands is to be made available on an incremental basis to facilitate implementation of, among other things, the tri-government approved West Don Lands Precinct revitalization plan.

Recommendations:

It is recommended that:

- (1) subject to compliance with the requirements of the *Municipal Act, 2001*, Water Street, Overend Street and Cypress Street and portions of Bayview Avenue, Eastern Avenue, Front Street East and Mill Street, shown as Parts 1 to 9, inclusive, on Sketch No. PS-2006-002 (collectively the “Highways”) be permanently closed as public highways;
- (2) notice be given to the public of a proposed by-law to permanently close the Highways, in accordance with the requirements of Chapter 162 of the City of Toronto Municipal Code, and, in addition, by publishing one notice of the proposed by-law in a local community newspaper, at the cost of the Tenant, and the Toronto and East York Community Council hear any member of the public who wishes to speak to the matter;
- (3) following the closure of the Highways, easements be granted as required to Bell Canada, Toronto Hydro, Enbridge Consumers Gas, Rogers Cable and any other utility companies as may be required, for access, operation, use, inspection, repair, maintenance, reconstruction or alteration of the existing services, and for the construction of additional or new services, or, with the consent of the affected utility companies, the services be removed from the Highways at the sole cost of the Tenant;
- (4) the Highways be declared surplus to the City’s requirements and all steps necessary to comply with the City’s real estate disposal process as set out in Chapter 213 of the City of Toronto Municipal Code be taken;
- (5) the Chief Corporate Officer be authorized:
 - (a) to negotiate with TWRC, ORC, the Province and/or TRCA for the possible disposal of parts of the Highways designated as Parts 1 to 5, inclusive and 7 to 9, inclusive, on Sketch No. PS-2006-002 (the “Project Highways”), on the understanding that there is a possibility that title may be conveyed directly to one or more private developers, to be selected in the future; and
 - (b) to invite an offer to purchase the portion of the Highways designated as Part 6 on Sketch No. PS-2006-002 (the “Remnant Highway”) from Canadian National Railway Company (“CN”);
- (6) authority be granted for the City to lease the Project Highways, once closed, four parcels of City-owned property located west of Bayview Avenue between the Eastern Avenue Diversion and the CNR/GO railway track, shown as Parts 2 to 5, inclusive, on Sketch No. PS-2006-004 (the “Bayview Properties”) and the City-owned property known

municipally as 33 St. Lawrence Street, shown as Part 1 on Sketch No. PS-2006-004, to the Tenant, for nominal rent, on the terms and conditions set out in Appendix “A” of this report, such lease agreement to be in a form satisfactory to the City Solicitor;

- (7) the Chief Corporate Officer be authorized to administer and manage the lease agreement, including the provision of any consents, approvals, notices and notices of termination provided that 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
- (8) the appropriate City officials be authorized and directed 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.

Background:

On May 30, 31 and June 1, 2001, City Council approved a governance structure for the interim TWRC to undertake four priority projects and the project planning for revitalization of the Toronto Waterfront. On April 1, 2003, pursuant to the Province’s *Toronto Waterfront Revitalization Corporation Act, 2002*, the permanent TWRC came into effect. On July 20, 21 and 22, 2004, City Council adopted Clause No. 14 of Report No. 6 of the Policy and Finance Committee, which, among other things, recommended that the flood protection land form be seen as a first priority in the redevelopment of the West Don Lands.

On November 30, December 1 and 2, 2004, City Council adopted, as amended, Clause No. 1 of Report No. 9 of the Policy and Finance Committee entitled “Governance Structure for Toronto Waterfront Revitalization”, thereby, among other things, approving in principle the transformation of TWRC into an empowered corporation and recognizing the need to strengthen tri-government commitment for a single, implementing waterfront corporation that works closely with local government to plan and achieve broad public and City building goals. Council also approved the concept that control of public lands should be transferred to TWRC on a precinct by precinct basis, or for individual projects, on a parcel by parcel basis, following completion of a Business and Implementation Strategy for the precinct or project that is satisfactory to the three governments.

City Council, at its meeting of May 17, 18 and 19, 2005 adopted, as amended, Clause No. 1 of Policy and Finance Committee Report No. 5 entitled “West Don Lands Precinct Plan and Environmental Assessment Master Plan”, thereby endorsing the April 2005 West Don Lands Precinct Plan (area shown on Attachment 1) as a basis for informing future environmental assessments, development application decisions and contribution agreements with the government partners and TWRC. Council also authorized TWRC to file the March 2005 West Don Lands Class Environmental Assessment Master Plan in the public record, subject to certain conditions of approval. In order to proceed with development in the West Don Lands Precinct, flood protection measures are necessary to remove the risk of flooding from the Don River. A flood protection land form designed by the TRCA in consultation with the City, ORC and TWRC, is to be constructed on the west side of the Don River between King Street East and the CNR/GO railway tracks (area shown on Attachment 1).

On September 28, 29 and 30, 2005, City Council adopted Clause No. 2 of Report No. 8 of the Policy and Finance Committee entitled "Implementation of a New Governance Structure for Toronto Waterfront Renewal", thereby endorsing certain proposed amendments to the *Toronto Waterfront Revitalization Corporation Act, 2002* that would allow TWRC to act as an agent of the City or the Province if expressly authorized in writing by such party to so act. Council also approved in principle an Accounting Protocol for Waterfront Revitalization, to track contributions to (cash and in kind) and returns from the waterfront initiative. The process through which control of land is to be provided to TWRC is to be defined in a public land management protocol agreed to by the governments and TWRC.

Comments:

The West Don Lands Precinct is 32 ha in size and generally located east of Parliament Street, south of King Street East, west of the Don River and north of the CN/GO rail corridor. The Precinct Plan proposes the area to be developed as a mixed use community with a maximum 6,000 residential units. It is anticipated that the area will be developed in 10 to 15 years. A new streets and block pattern of development is envisioned for the area.

The Province is the majority land owner in the area and development will proceed in co-operation with the TWRC and the City. Applications for subdivision, zoning amendments and lifting the H to allow for development to proceed in the area have been submitted. The plan of subdivision secures the new streets and blocks in the area. The first phase of development will be in the area bounded by Queen Street East, St. Lawrence Street, Eastern Avenue ramps and the Don River. Approximately 600 units, in a mix of affordable and market units, are projected to be developed in this area. Construction is expected to begin in Spring 2006.

In order for the construction to begin a number of existing roads in the area must be closed and leased. Transportation Services staff has received a request from TWRC, on behalf of ORC, for the closing of the Project Highways (Parts 1 to 5 and 7 to 9, inclusive, on Sketch No. PS-2006-002) for incorporation into the redevelopment area and the flood protection land form. Transportation Services has reviewed the feasibility of closing the Project Highways and has determined that the Project Highways can be closed, provided adequate provision is made for the existing utilities and City services located in the Highways. Negotiations can then proceed with TWRC, ORC, the Province and/or TRCA for the ultimate disposal of parts of the Project Highways, on the understanding that title to some parts of the Project Highways may be conveyed directly to one or more private developers, to be selected in the future. As the Remnant Highway (Part 6 on Sketch No. PS-2006-002) is not required for highway purposes, it is recommended that it be closed at the same time as the Project Highways and that CN be invited to submit an offer to purchase it.

On an interim basis, until the Project Highways can be permanently closed and leased, the Project Highways are to be temporarily closed. Commencing February 10, 2006 hoarding, and control gates are to be erected around the entire site to facilitate environmental testing and demolition, which is scheduled to begin as soon as possible. The temporary closures are being processed by the General Manager of Transportation Services pursuant to Municipal Code

Chapter 937. No work will be permitted within the Project Highways until the Project Highways have been permanently closed and leased, assuming City Council approves the lease. Twenty-four hour access to the Project Highways will be maintained for City and utility company staff and vehicles to access their services in case of an emergency.

It is anticipated that the Plan of Subdivision for the West Don Lands Precinct and the RA/RM Plan will be considered by City Council in June 2006. In order for site preparation activities, including demolition and remediation, and ultimately, construction of the flood protection land form to proceed, it is necessary to lease to the Tenant the Project Highways, once closed, 33 St. Lawrence Street and the Bayview Properties. At the time the Plan of Subdivision for the West Don Lands Precinct is registered, portions of 33 St. Lawrence Street and the Bayview Properties will be laid out as public highways and portions will be included in the public park and open space systems within the Precinct.

Staff of Facilities and Real Estate has negotiated the terms of a lease with the Tenant, on the terms and conditions set out in the attached Appendix "A". Generally, the lease will be at nominal rent of Two Dollars (\$2.00) for the entire term, will have a term of 5 years and will be at no cost to the City.

In order to proceed with the disposal of the Highways, the City must comply with the procedures governing disposal of property. Section 268 of the *Municipal Act, 2001* requires that, before selling any property, City Council must declare the property surplus by by-law or resolution, give notice to the public of the proposed sale and obtain at least one appraisal of the market value of the property, unless exempted from doing so.

The usual process to close and convey a highway requires three separate approvals from City Council, as the initial recommendation to close a highway is usually conditional upon City Council approving a sale of the highway at a subsequent City Council meeting. After a sale transaction is subsequently approved by City Council, public notice of the proposed by-law to close the highway is then given, members of the public who wish to speak to the matter are given the opportunity to do so and the necessary bill is introduced at a subsequent City Council meeting. Given that the redevelopment of the West Don Lands Precinct is an important Waterfront initiative supported by the City, the Province and the Federal government, it is recommended that the necessary steps to close the Highways be taken immediately. Then, if City Council subsequently approves the conveyance of the Highways, the conveyance can proceed immediately thereafter.

The requirements of the Municipal Class Environmental Assessment (the "Class EA") have been met under the West Don Lands Precinct Plan and Environmental Assessment Master Plan.

Conclusions:

In order to facilitate the West Don Lands Redevelopment Project, the Highways should be permanently closed and declared surplus, with adequate provision being made to protect the existing utilities and City services located in the Highways. The Chief Corporate Officer should be authorized to negotiate with TWRC, ORC, the Province and/or TRCA for the possible

disposal of parts of the Project Highways, on the understanding that there is a possibility that title may be conveyed directly to one or more private developers, to be selected in the future and to invite an offer to purchase the Remnant Highway from CN.

The Project Highways, once closed, the Bayview Properties and the property known municipally as 33 St. Lawrence Street should be leased to the Tenant on the terms and conditions set out in Appendix "A".

Contacts:

Name: Andrew Koropeski, P. Eng
Position: Director, Transportation Services
Telephone: 416-392-7714
Facsimile: 416-392-1920
E-mail: akoropes@toronto.ca

Name: Joe Casali
Position: Director, Real Estate Services
Telephone: 416-392-7202
Facsimile: 416-392-1880
E-mail: jcasali@toronto.ca

Gary Welsh, P. Eng
General Manager, Transportation Services

Bruce Bowes, P. Eng.
Chief Corporate Officer

List of Attachments:

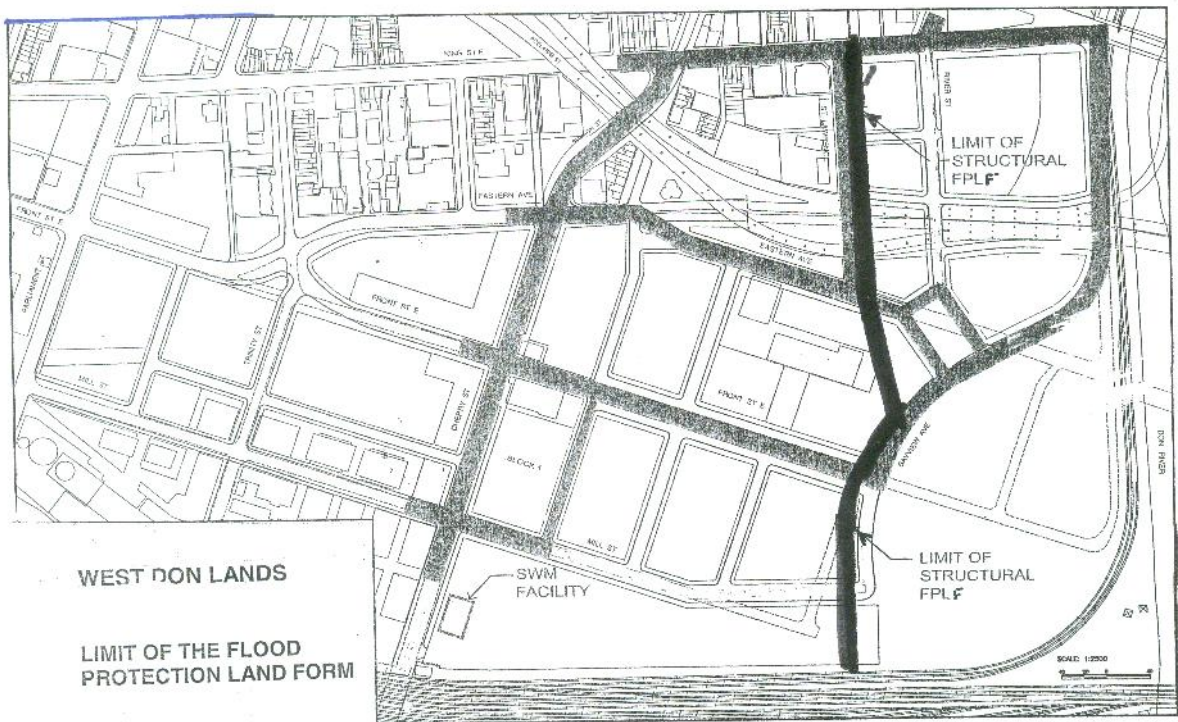
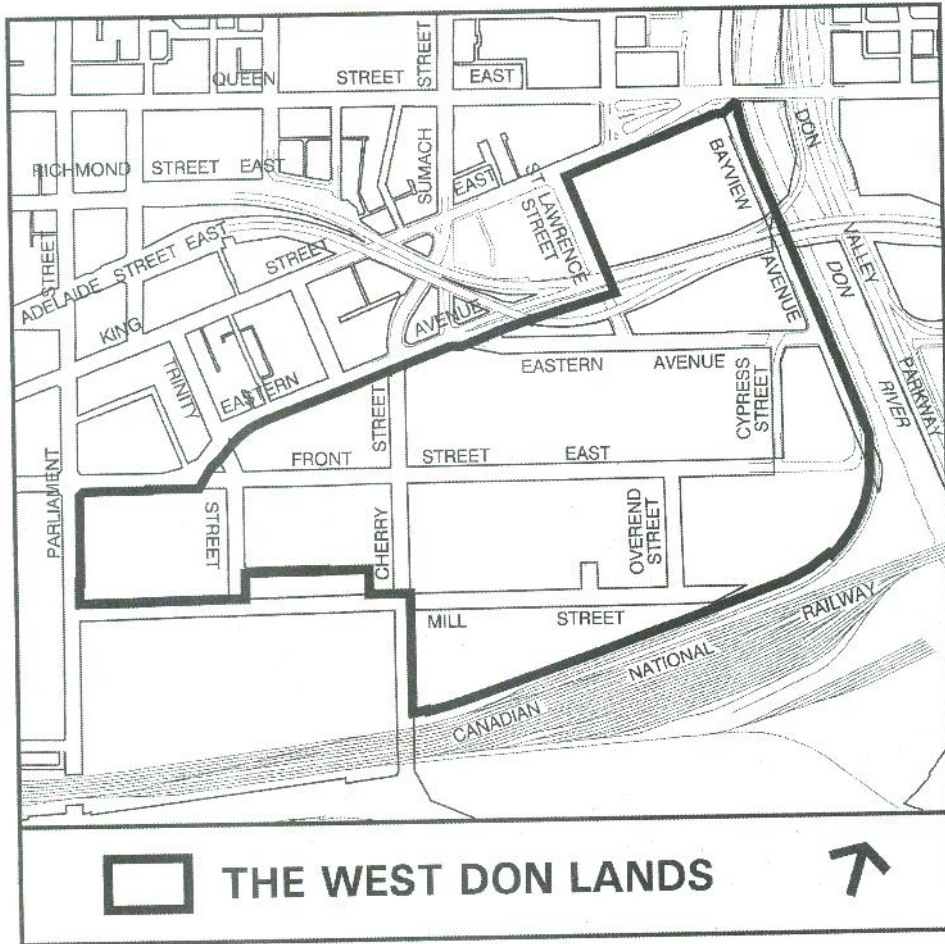
Attachment 1
Appendix A – Basic Lease Terms and Conditions
Sketch No. PS-2005-062
Sketch No. PS-2006-002
Sketch No. PS-2006-004

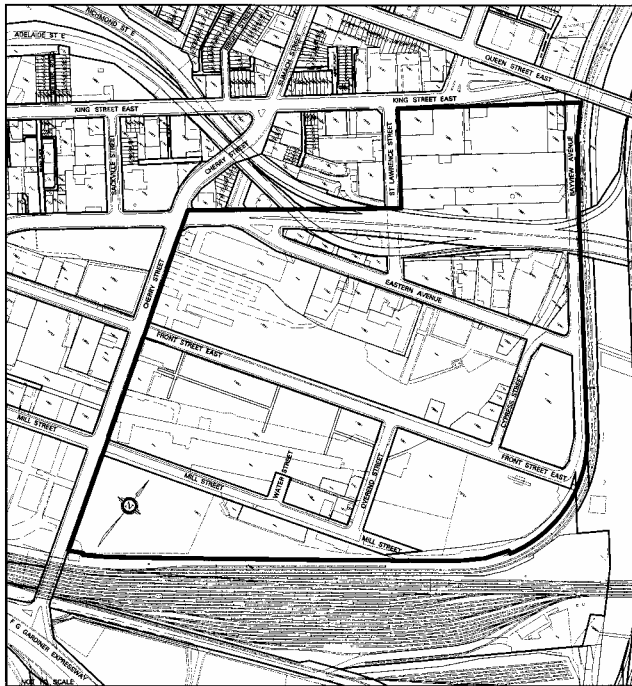
APPENDIX “A”

Basic Lease Terms and Conditions
Lease of Project Highways, Bayview Properties and 33 St. Lawrence Street

1. Commencement Date: For Bayview Properties and 33 St. Lawrence Street, upon execution of the lease; for Project Highways, upon registration of a by-law permanently closing the highways as public highways.
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

Attachment No. 1





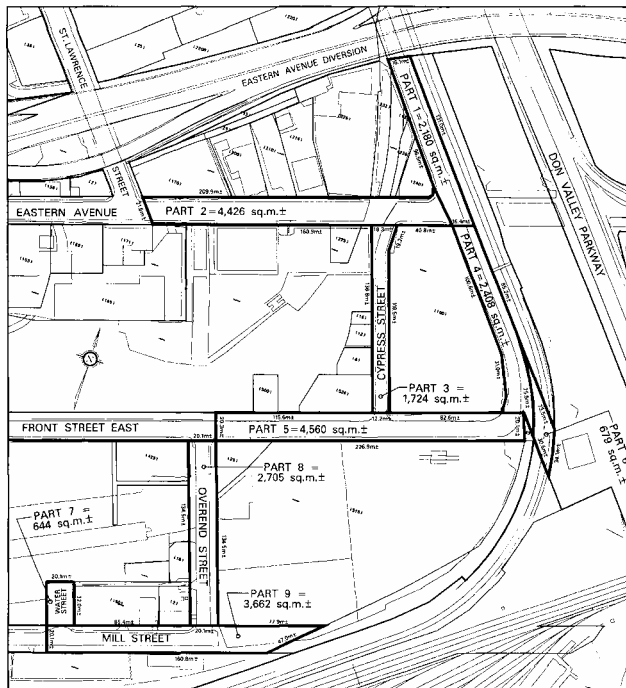
Toronto
WORKS & EMERGENCY SERVICES
TECHNICAL SERVICES DIVISION
SURVEY & MAPPING

PROPERTY INFORMATION SHEET
SKETCH SHOWING THE WEST DON LANDS
EAST OF CHERRY STREET

NOTE: THIS SKETCH HAS
BEEN COMPILED FROM
OFFICE RECORDS.

WARD 28 - TORONTO CENTRE-ROSEDALE
DATE: MAY 27, 2005

SKETCH No. PS-2005-062



Toronto
TECHNICAL SERVICES DIVISION
SURVEY & MAPPING SERVICES

PROPERTY INFORMATION SHEET
CITY OWNED LAND
PROPOSED CLOSURES OF PORTIONS OF
PUBLIC HIGHWAYS WITHIN THE WEST DON LANDS

NOTE:
THIS SKETCH HAS
BEEN COMPILED FROM
OFFICE RECORDS.

NOT TO SCALE

WARD 28 - TORONTO CENTRE-ROSEDALE
DATE: JUNE 12, 2005

SKETCH No. PS-2006-002

