

Consolidated Clause in Toronto and East York Community Council Report 5, which was considered by City Council on June 27, 28 and 29, 2006.

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**Toronto Waterfront Revitalization - West Don Lands
Precinct Surplus Land Declaration and Proposed
Closing and Leasing of Four Untravelled Public Lanes
located within the Precinct
(Ward 28 - Toronto Centre-Rosedale)**

City Council on June 27, 28 and 29, 2006, adopted this Clause without amendment.

The Toronto and East York Community Council recommends that City Council adopt the staff recommendations in the Recommendations Section of the report (May 24, 2006) from the General Manager, Transportation Services, and Chief Corporate Officer:

Purpose:

To recommend that four untravelled public lanes 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 disposal of the closed lanes, 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 the 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 lanes, 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, 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 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, the four untravelled public lanes, shown as Parts 1 to 4, inclusive, on Sketch No. PS-2006-052 (collectively the “Lanes”), be permanently closed as public lanes;
- (2) notice be given to the public of a proposed by-law to permanently close the Lanes, in accordance with the requirements of Chapter 162 of the City of Toronto Municipal Code, and the Toronto and East York Community Council hear any member of the public who wishes to speak to the matter;
- (3) the Lanes 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;
- (4) the Chief Corporate Officer be authorized to negotiate with TWRC, ORC, the Province and/or TRCA for the possible disposal of the Lanes, 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;
- (5) authority be granted for the City to lease the Lanes, once closed, 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;
- (6) 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
- (7) 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:

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 Tenant of three public highways and portions of four public highways within the West Don Lands Precinct, to facilitate the construction of the West Don Lands Flood Protection Land Form and the redevelopment of the West Don Lands Precinct. City Council also declared these highways to be surplus to the City’s requirements and authorized the Chief Corporate Officer to negotiate with TWRC, ORC, the Province and/or TRCA for the ultimate disposal of parts of the highways, on the understanding that title to some parts of the highways may be conveyed directly to one or more private developers, to be selected in the future.

During the preparation and review of the draft plan of subdivision, it was determined that the Lanes were still under City ownership. These lanes are untravelled and do not contain any municipal services or public utilities.

Comments:

The Province is the majority land owner in the West Don Lands and development will proceed in cooperation with TWRC and the City. Ownership information submitted by TWRC in conjunction with the West Don Lands Environmental Assessment Master Plan indicated that the Lanes were also owned by the Province. However, during preparation and review of the draft plan of subdivision for the West Don Lands it was determined that the Lanes are still public lanes under the jurisdiction of the City of Toronto and that they must be dealt with in a similar manner to the highways referred to in the Background section of this report.

In order to allow the redevelopment of the West Don Lands to proceed in a timely manner, it is necessary to close the Lanes by By-law and lease them to the Tenant on the same terms and conditions as the lease for the highways, 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 5 years and will be at no cost to the City. Negotiations can then proceed with TWRC, ORC, the Province and/or TRCA for the ultimate disposal of all or parts of the Lanes, on the understanding that title to some parts of the Lanes may be conveyed directly to one or more private developers, to be selected in the future.

In order to proceed with the disposal of the Lanes, 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.

Conclusions:

In order to facilitate the West Don Lands Redevelopment Project, the Lanes should be permanently closed and leased to the Tenant on the terms and conditions set out in Appendix "A" and the Lanes should be declared surplus. The Chief Corporate Officer should be authorized to negotiate with TWRC, ORC, the Province and/or TRCA for the possible disposal of the Lanes, 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.

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Appendix "A"

Basic Lease Terms and Conditions

1. Commencement Date: Upon registration of a by-law permanently closing the Lanes as public lanes.
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

