

**KING-LIBERTY AREA – CENTRAL PARK – LEASE-BACK
OF PRISON CHAPEL BUILDING**

Date:	July 28, 2010
To:	Government Management Committee
From:	City Solicitor
Wards:	Ward 19 – Trinity Spadina
Reference Number:	

SUMMARY

The Plan of Subdivision for the King-Liberty lands generally located west of Strachan Avenue and south of King Street West provides for the creation of a .42 ha City park located on East Liberty Street. The park land has now been conveyed to the City and the park improvements are progressing in accordance with the terms of the registered subdivision agreement. The outstanding conveyancing matter involves the lease-back of the historically designated Prison Chapel building located in the south east quadrant of the park to the owner/subdivider of the Inglis Lands contemplated in previous agreements and reports related to planning matters completed in respect of the development. This report is to confirm the terms of the lease, including the extent of the lands to be included in the lease.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council confirm and approve the previously authorized lease arrangements for the Prison Chapel building situated in the King Liberty Central Park to the owner/subdivider of the Inglis Lands providing for the entering into lease or easement agreements, as appropriate, in respect of the lands shown as Parts 1, 2, 3, 4, 5, 6, 7, and 10 on the plan attached as Attachment 1 and are to be substantially on the terms set out in Attachment 2 and such other terms as may be satisfactory to the General Manager of Parks, Forestry & Recreation, in a form satisfactory to the City Solicitor.

Financial Impact

The Recommendation contained in this Report will have no financial impact.

DECISION HISTORY

At its meeting held on August 1, 2, 3 and 4, 2000, City Council amended and adopted Clause No. 7 of Toronto Community Council Report No. 13 and approved an Official Plan Amendment, Zoning By-law and Draft Plan of Subdivision for the King Liberty lands. Together with implementing agreements, these approvals provided for the redevelopment of a large tract of vacant land formally occupied by the Inglis Manufacturing Company, west of Strachan Avenue, south of King Street West and east of Hanna Avenue. Block 12 on the Draft Plan of Subdivision was required to be developed as a Central Park for this area, which is now known as Liberty Village.

The approvals also provided for registered Subdivision, Section 37 and Heritage Easement Agreements, which together required the owner/subdivider to convey the Central Park to the City and to restore the historic Prison Chapel building located in the south-east quadrant of the Central Park, with the City leasing the Prison Chapel building back to the owner for a 99 year term, for certain uses specified in the zoning by-law.

COMMENTS

The majority of the work on the 0.42 ha Central Park has been completed to the satisfaction of the Parks, Forestry & Recreation Division pursuant to the terms of the Subdivision Agreement. The Central Park was conveyed to the City in December, 2006. In accordance with the original agreements referred to above, the owner/subdivider was entitled to reserve from that conveyance a long term leasehold interest in the Prison Chapel Building. In order to complete this transaction in a staged manner, however, at the time the Central Park was conveyed to the City, the City gave an undertaking to immediately lease-back the Chapel Building to the owner/subdivider. As the intent always was that the leasehold interest would be retained by the owner/subdivider, it is not necessary to declare the lands to be leased-back surplus and the lease-back does not constitute a disposal of existing parkland.

The owner/subdivider, in concert with the proposed subtenant, 2195114 Ontario Inc. (a subsidiary of the Pegasus Group of Restaurants Inc.), are ready to complete the lease and to proceed with the restoration of the Prison Chapel building in accordance with a Composite Restoration Plan to be submitted to and approved by the City under the Heritage Easement Agreement. As the earlier approvals contained few details about the lease, this report is to confirm the basic terms of the lease, as set out in Attachment 2 and discussed below.

To facilitate the adaptive re-use of the Chapel Building, the owner/subdivider, with the concurrence of the Parks, Forestry & Recreation Division, has indicated that certain lands

extending under and beyond the footprint of this historic building are required for inclusion in the lease or in access easements for various temporary or permanent purposes. These lands are shown as Parts 1, 2, 3, 4, 5, 6, 7, and 10 on the plan appended as Attachment 1 to this Report.

The inclusion of these lands and easements is deemed appropriate given the owner's need to access areas below the structure to carry out soil remediation and the owner's long term obligations in the Heritage Easement Agreement to maintain the heritage building. In addition, these lands are a necessary component of the lease for practical, functional reasons. For example, the existing Subdivision Agreement anticipated the need for the lease to accommodate certain external functions of the re-used Chapel Building (such as garbage storage and loading areas), and requires that the Parks Division review the location and design of same.

Both the Subdivision Agreement and the Heritage Easement Agreement provide that the Chapel Building may be used for a range of uses permitted in former City of Toronto Zoning By-law No. 438-86, as same may be amended from time to time. Current permitted uses under this Zoning By-law include "restaurant", "sales marketing centre for real estate being marketed exclusively for property on the Inglis Lands" and "Community Services, Cultural and Arts Facilities" (defined to include a clinic, community centre, community health centre, day nursery, performing arts studio, school, police or fire station or place of worship). The lease, therefore, will permit any of these uses and any other uses that may be permitted by the Zoning By-law as it may be amended from time to time. The proposed sub-tenant, 2195114 Ontario Inc. (a subsidiary of the Pegasus Group of Restaurants Inc.), will be operating a restaurant upon completion of construction, restoration, and fixturing of the Chapel Building.

The lease is to be a 99 year lease, for nominal basic rent, net and carefree to the City as landlord, as has been continuously contemplated and approved through the planning process. As required under the Subdivision Agreement, the Section 37 Agreement and the Heritage Easement Agreement, the lease will require the Tenant to carry out and

complete the necessary restoration work prior to occupancy. The owner/subdivider has advised, however, that it wishes to sublet the premises to 2195114 Ontario Inc. (a subsidiary of the Pegasus Group of Restaurants Inc.). It is recommended that the City consent to this sublease as part of the lease.

CONTACT

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SIGNATURE

Anna Kinastowski
City Solicitor

ATTACHMENTS

Attachment 1 – Draft Reference Plan
Attachment 2 – Lease Terms

Attachment 2

Basic Lease Terms of Lease to 863880 Ontario Limited

- (1) Leased Premises and Easement Areas – Prison Chapel Building and the adjoining lands shown as Parts 1, 2, 3, 4, 5, 6, 7, and 10 on draft reference plan # 30-90-095-121, (temporary and/or permanent easements, as required, for access, construction, maintenance);
- (2) Term – 99 years;
- (3) Basic Rent - \$1.00 for entire term, plus HST;
- (4) Net Lease – Tenant shall be completely responsible for all costs related to the Leased Premises, including realty taxes;
- (5) Use – Any uses permitted under Zoning By-law No. 438-86, as same may be amended from time to time;
- (6) Restoration of Leased Premises –Tenant shall undertake and complete the restoration of the Leased Premises in accordance with the requirements of the Lease, the Section 37 Agreement, the Heritage Easement Agreement and the Composite Restoration Plan to be submitted to and approved by the City and secured by an irrevocable letter of credit satisfactory to the City;
- (7) Right of First Refusal – Should the City wish to sell the Leased Premises to an arm's length third party commercial transaction, Tenant shall have a right of first refusal on specified terms and conditions; and
- (8) Assignment & Subletting – Tenant shall not sublet or assign without the prior written consent of the City, which consent may be unreasonably withheld; City consents to proposed sublease of Leased Premises to the 2195114 Ontario Inc. (a subsidiary of the Pegasus Group of Restaurants Inc.).