

City Council

Notice of Motion

MM47.43	ACTION			Ward: 13
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Authority to Accept Land at 501-521 Yonge Street for Toronto Transit Commission Tunnel and Ancillary Uses - by Councillor Robin Buxton Potts, seconded by Councillor Mike Layton

** Notice of this Motion has been given.*

** This Motion is subject to referral to the General Government and Licensing Committee. A two-thirds vote is required to waive referral.*

Recommendations

Councillor Robin Buxton Potts, seconded by Councillor Mike Layton, recommends that:

1. City Council exempt the stratified parcel of fee simple land at 501-521 Yonge Street, Toronto, designated as Parts 16, 21, 29, 30, 37, 38, 39, 40, 41, 52, 53, 54, 55, 56, 57, 58, 59 and 61 on Plan 66R-32139 (the "Conveyance Lands"), required to be conveyed to the City pursuant to the Planning Act by Lanterra 501 Yonge Developments Limited (the "Developer") from the application of Section 5.4.5 of the Policy for Accepting Potentially Contaminated Lands (the "Policy"), subject to ongoing indoor air and ground water monitoring requirements pursuant to the Certificate of Property Use affecting 501-521 Yonge Street, but not directly affecting the Conveyance Lands, and substantially on the major terms and conditions set out below, and including such other terms and conditions as deemed appropriate by the Executive Director, Corporate Real Estate Management, and in a form satisfactory to the City Solicitor:

a. the Conveyance Lands are not identified in the environmental reports; the Conveyance Lands should be identified in the reports or as a separate report that includes a discussion regarding the environmental condition (soil, groundwater and soil vapour) of the Conveyance Lands and specific risk assessment and Certificate of Property Use requirements for the Conveyance Lands, and that report is to be provided to the City in acceptable form to the Executive Director, Corporate Real Estate Management;

b. provision of a site plan report, as required by the Certificate of Property Use, documenting the construction of the hard and/or soft caps at the Conveyance Lands, and documenting the barrier construction and quality at the Conveyance Lands is to be provided in acceptable form to the Executive Director, Corporate Real Estate Management;

c. provision of a Qualified Person final statement letter that is consistent with the Policy and to the satisfaction of the City's third party peer reviewer;

d. provision of a reliance letter consistent with the Policy is to be provided;

e. provision of the Ministry of the Environment, Conservation and Parks Freedom of Information request response should be provided, as well as confirmation as to whether the results of the response alter the conclusions of the Phase One ESA Report;

f. the Developer shall provide verification that there are no groundwater wells, soil vapour, or indoor air monitoring requirements located on the Conveyance Lands that are coming to the City, verification that all Certificate of Property Use obligations and legislative requirements are currently being met and the Developer shall provide an updated Health and Safety Plan (in order to address concerns relating to subsurface worker exposures); and

g. the Developer shall enter into an indemnity agreement with the City whereby the Developer assumes all responsibility and indemnifies the City from any and all liability associated with monitoring obligations set out in the Certificate of Property Use on 501-521 Yonge Street.

2. City Council authorize the conveyance of the Conveyance Lands even though Risk Management Measures are not consistent with the Policy; barriers, use of special personal protective equipment and air monitoring during subsurface works, ground water monitoring, soil vapour monitoring and indoor air monitoring are all required in the risk assessment and Certificate of Property Use for the development property and each of the above as demonstrated by the Developer are not acceptable under City Policy for the conveyance of Conveyance Lands.

3. City Council authorize the conveyance of the Conveyance Lands even though the Modified Generic Risk Assessment did not calculate the risks for subsurface worker exposure to soil through direct contact and the risk assessment did not address potential vapour inhalation exposure within a trench, which must be considered for the risk assessment of the Conveyance Lands.

4. City Council authorize the Executive Director, Corporate Real Estate Services, or their designate, to enter into an indemnity agreement whereby the Developer assumes all responsibility and indemnifies the City from any and all liability associated with such monitoring obligations under the Certificate of Property Use on 501-521 Yonge Street.

Summary

In 2017 an application was received by City Planning for a mixed use development with podiums and two point towers to be constructed over the Toronto Transit Commission subway, and new vent shafts to be built in the road right-of-way. The City and Toronto Transit Commission have been in consultation with the Developer while they constructed the development and will be entering into a conveyance of fee simple lands and a mutual easement agreement in order to protect access and the Toronto Transit Commission infrastructure.

Under the Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act, underground fee simple conveyances containing City infrastructure to the City require third party peer review prior to conveyance.

The City's third party peer reviewer identified a number of compliance issues with the environmental work conducted by the Developer. Although they had met the Ministry of the Environment's requirements for Risk Assessed Lands, the Developer had incorporated risk management measures that were not in compliance with the City's Conveyance Policy. The Developer was not aware of the Conveyance Policy when they built the building and in order to now satisfy the City, would require them to redo or amend the environmental reports at

considerable time and cost, as well as causing further hardship on the residents of the occupied building. Therefore, relief from the Policy is being sought.

Background Information (City Council)

Member Motion MM47.43