

City Council

Motion without Notice

MM47.110	ACTION			Ward: 3
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Authorization to Accept Land at 251 Manitoba Street for Legion Road Extension right-of-way - by Councillor Mark Grimes, seconded by Councillor Stephen Holyday

** This Motion has been deemed urgent by the Chair.*

** This Motion is not subject to a vote to waive referral. This Motion has been added to the agenda and is before Council for debate.*

Recommendations

Councillor Mark Grimes, seconded by Councillor Stephen Holyday, recommends that:

1. City Council exempt the land at 251 Manitoba Street required to be conveyed by the Owner to the City, at no cost to the City, for the Legion Road Extension from the application of Section 5.1.1 of the Policy for Accepting Potentially Contaminated Lands (the "Policy"), subject to terms and conditions as deemed appropriate by the General Manager, Transportation Services, the Chief Engineer and Executive Director, Engineering and Construction Services, the Chief Planner and Executive Director, City Planning and the Executive Director, Corporate Real Estate Management, and in a form satisfactory to the City Solicitor.

Summary

The Developer of the 251 Manitoba Street site is obligated to convey a 27 metre-wide parcel of land to provide a road allowance for the future Legion Road Extension. The lands will not be dedicated as a public road until such time as the City constructs the Legion Road Extension which is anticipated to begin in 2024 or 2025. Detailed design by the City for the Legion Road Extension is resuming. A final condominium approval application for the site and remaining two buildings has been submitted and is currently under review.

The lands required to be conveyed contain contaminants at a depth of one to 4.5 metres. As part of previous planning approvals (and pursuant to Minutes of Settlement between the City and the former Owner of the lands, in respect of an appeal to the former Ontario Municipal Board, which have been assumed by the current Developer), the Developer was required to complete a Risk Assessment in accordance with the Environmental Protection Act and Ontario Regulation 153/04 (the Regulation), and implement the measures identified in the Risk Assessment to the City's satisfaction. At the time, the Risk Assessment measures consisted of a 1.5 metre clean cap which satisfies provincial requirements, and satisfies the City's Policy for Accepting Potentially Contaminated Lands to be conveyed to the City under the Planning Act ("Policy"), but does not meet the City's construction standards. The Province issued its Certificate of Property Use to the Developer on July 27, 2020. To date, the Developer has not implemented the required obligations identified in the Certificate of Property Use or satisfied other

associated planning approval conditions. The City's Peer Reviewer has also not signed off on the Risk Assessment.

City Staff continue to request the Developer comply with previous planning approval conditions while also exploring other alternatives that could potentially support the City's Legion Road Extension project. This includes continuing to require the conveyance of the lands to the City while potentially accepting cash-in-lieu of satisfying the previous environmental remediation requirements, along with other conditions related to the maintenance of the lands and indemnification of the City. If the City takes ownership of the lands without the Developer satisfying the Certificate of Property Use's obligations, the City will be required to meet the obligations in the Certificate of Property Use or engage with the Province to amend the Certificate of Property Use to be in compliance with Environmental Protection Act, R.S.O. 1990, c. E.19, sections 168.6 (Certificate of Property Use) and 197 (Order).

If cash-in-lieu were accepted as an alternative, the cash-in-lieu would be applied to the City's Legion Road Extension Project in recognition that the future Legion Road Extension would require lowering the grade of the lands below the 1.5 metre clean cap and potentially require additional remediation efforts that may require amending the Certificate of Property Use. The cash-in-lieu and other requirements would be secured as part of the condominium approval; and the conveyance of land and satisfying all Draft Plan of Condominium Approval conditions are required prior to registration of the condominium.

The City's Policy does not allow for the acceptance of cash-in-lieu of satisfying the requirements for Conveyance Lands under the Planning Act regarding soil and groundwater conditions. Council authority is required to allow for the acceptance of cash-in-lieu.

Background Information (City Council)

Member Motion MM47.110