



ADMINISTRATIVE REPORT

Report Date: November 26, 2013
Contact: Al Zacharias
Contact No.: 604.873.7214
RTS No.: 10354
VanRIMS No.: 08-2000-20
Meeting Date: December 17, 2013

TO: Vancouver City Council

FROM: The General Manager of Engineering Services in consultation with Director of Legal Services

SUBJECT: East Fraser Lands Area 1 Subdivision - Wide Area Site Road Establishment

RECOMMENDATION

THAT Council authorize the Director of Legal Services in consultation with the General Manager of Engineering Services to enter into such agreements as are required to transfer to the City, at no cost to the City, and establish as road Lot 42 District Lot 331 Group 1 New Westminster District Plan EPP31354, the same as shown cross-hatched on the sketch attached hereto as Appendix "A" ("Lot 42").

REPORT SUMMARY

This report seeks to establish certain new roads, within the Waterfront Precinct of East Fraser Lands, under the Vancouver Charter to ensure the remediation obligations attributed to Park Lane and the Province under existing registered soils agreements will continue to apply to the new road areas. A standard road dedication by subdivision under the Land Title Act, would extinguish these soils remediation encumbrances applicable to the new road areas.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

The authority for establishing streets and lanes is set out in Section 291(a) of the *Vancouver Charter*.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The General Manager of Engineering Services, and the Director of Legal Services are in agreement with the Recommendation.

REPORT

Background/Context

To enable enactment of the EFL Area 1 rezoning Park Lane has applied to subdivide the lands within Area 1 to create development parcels, amenity parcels, park parcels and roads in accordance with the EFL design guidelines. See Appendix "B" for a draft copy of the subdivision plan.

Part of EFL Area 1, which is within the Waterfront Precinct, has been designated as a Wide Area Site ("WAS") by the provincial Ministry of Environment ("MOE"). A WAS is defined in the Contaminated Sites Regulation as a site which contains specified contaminants originating from specified sources covering multiple parcels of land and is a tool used to designate responsible parties for that contamination, thus protecting future landowners. The EFL WAS was previously used for industrial wood preservation operations and is subject to soil, sediment, vapour, and groundwater contamination from creosote. Park Lane has remediated the WAS and has received a risk-based Certificate of Compliance ("COC") to residential land soil use and freshwater aquatic life water use from the MOE. On-going monitoring, remedial works, groundwater treatment, and reporting are required as conditions of the risk-based COC. These requirements, including a Section 219 Covenant in favour of the Province, are secured in agreements, between Park Lane and the Province (the "WAS Agreements"), registered over all of the lands included within the boundaries of the WAS. Failure to comply with the conditions imposed under the COC could result in the COC being rescinded by the MOE.

The COC and WAS Agreements require Park Lane to operate groundwater monitoring and collection facilities that are located, in part, on land that is to become City road. The treatment facility will be located on land owned by Park Lane. The COC and WAS Agreements include the provision of financial security to the MOE to ensure the remedial works perform satisfactorily. The WAS Agreements are intended to remain registered as encumbrances on the titles of the new lots created by the subdivision but, under standard procedures, the charges would be extinguished from the road portions if they were dedicated to the City under the provisions of the *Land Title Act*.

The portion of proposed road subject to the WAS Agreements is shown cross hatched on the sketch attached as Appendix "A" and is identified as "Lot 42". As per the Recommendation, Lot 42 will be transferred to the City and established as road under the *Vancouver Charter* such that it retains a title as a placeholder for the WAS agreements. Pursuant to the *Vancouver Charter* Council authority is required to establish Lot 42 as road.

To ensure that Lot 42 is used for road purposes, the Approving Officer will require registration of a no-development covenant (other than development to support the road use) on the title of Lot 42 as a condition of subdivision. Additional prior-to enactment conditions of the rezoning will require agreements between the City and Park Lane to further protect the City

and secure soils remediation obligations relative to the development parcels, roads, parks and amenity sites. These arrangements will provide for re-habilitation of the road (Lot 42), by Park Lane, should the road be disturbed by remediation or monitoring activities which may consist of removal or replacement of wells, pipes, service lines etc.

Strategic Analysis

Establishment of road under the *Vancouver Charter*, as opposed to dedication as road under the *Land Title Act*, will enable the retention of a title for the new road within the WAS (Lot 42) as a placeholder for the WAS Agreements. Normally, the City requires developers to deliver new roads entirely free of encumbrances but in this case an exception is warranted since the continued registration of the WAS Agreements over Lot 42 provides a reliable record of obligations and surety for the City, and removal of the WAS Agreements from any part of the land comprising the WAS would require the approval of the Province. Staff recommend this approach to ensure that the obligations with respect to the WAS remain between the Province and Park Lane and not with the City as the new owner of Lot 42. The City will also require an agreement with Park Lane to indemnify the City and ensure restoration of the road should it be disturbed as a result of any WAS related activities.

Implications/Related Issues/Risk (if applicable)

Financial

Under the public amenity and financial strategy for the East Fraser Lands ODP, Park Lane was obligated to dedicate land to the City for road, parks, and open space at no cost to the City as conditions of rezoning approval. To enable the retention of a title for the new road within the WAS, Lot 42 will be transferred at no cost to the City and Park Lane will retain all responsibility to operate the remedial systems.

Environmental

These arrangements will ensure that all responsibility to operate the remedial systems is with Park Lane and not with the City as owner of the road.

Legal

The retention of a title for the new road within the WAS (Lot 42) enables a reliable and secure means to record the existing obligations between the Province and Park Lane and protects the City as the new owner of Lot 42. Additionally, the WAS designation protects the City from future liability as a "responsible person" under the *Environmental Management Act* for remediation of contamination in the road. These arrangements are not expected to have an adverse impact on the City's use of Lot 42 as road.

CONCLUSION

The General Manager of Engineering Services, in consultation with the Director of Legal Services recommends approval of the Recommendation contained in this report.

* * * * *

