

Cindercrete Lease Termination - 17th Street Extension Land

ISSUE

A citizen request to terminate Cindercrete's lease of 2.43 acres of City of Saskatoon (City)-owned land acquired for the extension of 17th Street West was presented to the Standing Policy Committee on Planning, Development, and Community Services.

BACKGROUND

Cindercrete, which currently employs approximately 50 people, has been operating at its current location at Avenue P and 17th Street West site since the 1950's.

The West Industrial Local Area Plan (LAP) was adopted by City Council in 2004 and was intended to provide a long-term guideline for revitalizing the area. At the time, the LAP identified the potential extension of 17th Street west of Avenue P along the Canadian National Railway (CN) spur.

At its April 26, 2010 meeting, City Council approved the purchase of CN spur lands spanning from 11th Street West to Avenue P near the 17th Street intersection for the future extension of 17th Street from Avenue P to 11th Street. Included in the purchase was Parcel BB, Plan No. 102214011 which encompasses the 2.43-acre portion of land currently leased to Cindercrete and is adjacent to the Cindercrete-owned property (Appendix 1).

At the time of purchase in 2010, CN had a lease in place with Cindercrete for the 2.43 acres of land which was assigned to the City. Since then, the lease has been renewed on a year-to-year basis.

The City lands leased to Cindercrete and used for storage are zoned IL1 (General Light Industrial District), while the Cindercrete-owned site is zoned IH (Heavy Industrial District).

Over the past several years, there have been five complaints from nearby residents regarding noise stemming from the Cindercrete property. Furthermore, at its meeting on August 17, 2020, when considering a specific request by members of the public to terminate the land lease with Cindercrete, the Standing Policy Committee on Planning, Development, and Community Services resolved:

- “1. That the Administration report back about termination opportunities relating to the lease with Cindercrete Products; and
2. That the report include any available information about nuisance complaints or known nuisances created on this land.”

Appendix 1 provides a visual of the City-owned land being leased by Cindercrete.

CURRENT STATUS

The land leased from the City is zoned IL1 and is currently used for storage of finished concrete materials. Cindercrete has installed a 10 foot high concrete block wall along the north edge of the leased lands to help screen the storage of finished materials from neighbouring properties.

Manufacturing of various Cindercrete concrete products occurs on lands owned by Cindercrete which are zoned IH. The current year-to-year lease with Cindercrete was intended to remain in place until construction on the 17th Street Extension begins.

The lease includes a “nuisance” clause which states:

“The tenant shall not permit anything to be done on the land which may be or become a nuisance or cause damage to the City, the land, or to the owners of occupiers of neighbouring lands.”

Termination options that exist under the current lease agreement, include:

1. The City being able to terminate the lease if any installment of rent is in arrears for a month or more, or if the tenant is in breach of any of the lease terms.
2. The City or the tenant being able terminate the lease at any time by giving at least six months' written notice.

DISCUSSION/ANALYSIS

Since acquiring the land from CN in 2010 and assuming the land lease, the City’s original intent was to maintain the existing lease with Cindercrete until the 17th Street Extension project received appropriate funding. Since there was uncertainty regarding the timing of the project, renewing the lease annually has been the Administration’s preferred approach.

Transportation staff have indicated that the 17th Street Extension project is fully funded with detailed design and contract preparation planned for 2021 and construction starting in 2022. Based on these timelines, notification to Cindercrete regarding the termination of the lease will take place in 2021 with removal of all storage materials being required prior to construction of the roadway extension in 2022. Although the lease requires a minimum of six months’ written notice, the Administration would provide Cindercrete as much notice as feasibly possible.

Cindercrete has leased the City-owned for ten years, and throughout the lease term has paid rent in a timely manner and has complied with the conditions of the lease agreement. Various site visits by the Administration concluded that the City lands under lease are being used in accordance with the terms of the lease and provisions of the IL1 zoning.

The IH zoning which applies to the land owned by Cindercrete permits land uses that have the possibility of generating nuisance conditions beyond the boundary of a site, including noise, dust, vibration, etc.

FINANCIAL IMPLICATIONS

Monthly revenue of \$1,250 is generated from the land lease to Cindercrete, equating to \$15,000 of annual revenue which is allocated to the City's General Revenue account. Termination of the lease would result in the loss of this monthly revenue.

LEGAL IMPLICATIONS

There are no privacy, legal, social, or environmental implications identified.

NEXT STEPS

The Administration will continue to monitor the use of the leased area and ensure the lease terms are being adhered to until the lease is terminated next year.

APPENDICES

1. Lands Leased to Cindercrete

REPORT APPROVAL

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