



STAFF REPORT ACTION REQUIRED

Acquisition of Toronto District School Board's 80 Lothian Avenue site

Date:	June 9, 2010
To:	Government Management Committee
From:	Chief Corporate Officer General Manager, Parks Forestry and Recreation
Wards:	5 – Etobicoke Lakeshore
Reference Number:	P:\2010\Internal Services\RE\Gm10047re – (AFS-12250)

SUMMARY

The Toronto District School Board (TDSB), at its meeting held June 24 and 25, 2009 adopted a resolution pursuant to Section 194(3) of the Education Act to declare approximately 4.0 acres (1.6 ha) of land as not required for the purposes of the Board. Pursuant to Ontario Regulation 444/98, Toronto Lands Corporation (TLC), the real estate arm of the TDSB, circulated these properties under a Proposal for Sale.

The City owns two properties abutting the subject lands. Located to the south is Fairfield Park and to the east is the Fairfield Seniors' Centre (former Fairfield Avenue Public School) operated by Parks, Forestry and Recreation. The surplus TDSB lands are comprised of parking lots lands that make up approximately 1.0 acre (0.4 ha) of the subject property and are currently used by and required for the Fairfield Seniors' Centre. The remaining 3.0 acres (1.2 ha) constitute what was the former school yard.

Negotiations with the TLC have been ongoing since October of 2009. The City and TLC have agreed to the Terms and Conditions as shown on Appendices "A-1" and "A-2" to this report and describe the salient terms of this proposed acquisition which are considered fair and reasonable.

Real Estate Services seeks authority for the City to acquire the parking lot lands on the property municipally known as 80 Lothian Avenue.

RECOMMENDATIONS

The Chief Corporate Officer and the General Manager, Parks Forestry and Recreation recommend that:

- (1) City Council grant authority to enter into an Agreement of Purchase and Sale with the Toronto District School Board to acquire the parking lot portion of the property municipally known as 80 Lothian Avenue, shown as Part 1 on Appendix “C” at a purchase price of \$1,735,733.00 plus applicable taxes and registration fees, estimated at \$55,160.00 substantially on the terms outlined in Appendix “A-1” to this report and on such other terms and conditions as may be acceptable to the Chief Corporate Officer and in a form satisfactory to the City Solicitor.
- (2) The 2010 Approved Capital Budget for Parks, Forestry and Recreation be increased in the amount of \$1,790,893.00 to be funded from the Land Acquisition Reserve Fund (XR-1012) for the acquisition of the parking lot portion of the property, ‘Fairfield Seniors’ Centre Parking Lot’.
- (3) City Council elect:
 - (a) to acquire the open space portion of the property at 80 Lothian Avenue, or
 - (b) not to acquire the open space portion of the property at 80 Lothian Avenue,
- (4) Should Council elect to acquire the open space portion of the property at 80 Lothian Avenue, as set out in Recommendation (3)(a) above,
 - (a) City Council grant authority to enter into an Agreement of Purchase and Sale with the Toronto District School Board to acquire the open space portion of the property municipally known as 80 Lothian Avenue, shown as Parts 2, 3, 4, 5 & 6 on Appendix “C” at a purchase price of \$4,564,267.00 plus applicable taxes and registration fees, estimated at \$147,370.00 substantially on the terms outlined in Appendix “A-2” to this report and on such other terms and conditions as may be acceptable to the Chief Corporate Officer and in a form satisfactory to the City Solicitor.
 - (b) The 2010 Approved Capital Budget for Parks, Forestry and Recreation be increased in the amount of \$4,711,637.00 to be funded from the Land Acquisition Reserve Fund (XR-1012) for the acquisition of the open space portion of the property ‘TDSB Lothian Avenue Site’.
 - (c) That all Section 37 monies from development in Ward 5 and all cash-in-lieu of parkland money over and above the initial 5% portion be refunded back to the Land Acquisition Reserve Fund (XR-1012) for 3 years or until the acquisition price of the open space portion of the property is refunded.

- (d) The Real Estate Division report back to City Council no later than 3 years after the City takes title to the property to recommend a final disposition of these lands and at that time and if need be Council authorize an exemption to the existing Official Plan policies regarding Open Space for any portion of the property not purchased for parkland purposes in order to consider alternative options for use of the land.
- (5) Each of the Chief Corporate Officer and the Director of Real Estate Services be authorized severally to execute, on behalf of the City, the Agreement of Purchase and Sale(s) with the Toronto District School Board.
- (6) The City Solicitor be authorized to complete the transaction on behalf of the City including making payment of any necessary expenses and amending the closing date and other dates to such earlier or later date and on such terms and conditions as she may from time to time consider reasonable.
- (7) This report be forwarded to the Budget Committee for consideration.
- (8) The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Financial Impact

The total cost of acquiring the parking lot lands is approximately \$1,790,893.00 including all taxes and charges.

Funding for the acquisition in the amount of \$1,790,893.00 is available in the Land Acquisition Reserve Fund (XR-1012). It is recommended that the 2010 Approved Capital Budget for Parks, Forestry and Recreation be increased by \$1,790,893.00 funded from the Land Acquisition Reserve Fund (XR-1012), for net \$0 impact.

A break down of the contemplated costs for the parking lot can be found in Appendix “A-1”.

Acquisition of Parking Lot Lands

Payments to Vendor:	Purchase price (less HST)	\$1,735,733.00
	Total Payment to TDSB	\$1,735,733.00
City's Closing Costs:	Land Transfer Taxes – app.	\$24,511.00
	*Non-Refundable HST (1.76%)	\$30,549.00
	Registration Costs –app.	\$100.00
Net Cost to City less *HST		\$1,790,733.00

Total HST on Parking Lot Lands \$225,645.00 *(of which \$30,549.00 is non-refundable)

If Council were to approve the acquisition of the open space portion of the property, the cost would be approximately \$4,711,637.00 including all taxes and charges.

Funding for the acquisition, in the amount of \$4,711,637.00 is available in the Land Acquisition Reserve Fund (XR-1012). It is recommended that the 2010 Approved Capital Budget for Parks, Forestry and Recreation be increased by \$4,711,637.00, funded from the Land Acquisition Reserve Fund (XR-1012), for a net \$0 impact on the City's budget.

The open space portion of the purchase price, approximately \$4,711,637.00 will be repaid to the Land Acquisition Reserve Fund from Section 37 monies from development in Ward 5 and all cash-in-lieu of parkland dedication money over and above the initial 5% portion, collected for 3 years or until the acquisition price is refunded.

A break down of the contemplated costs for the entire property can be found in Appendix "A-2".

Acquisition of Open Space Lands

Payments to Vendor:	Purchase price (less HST)	\$4,564,267.00
	Total Payment to TDSB	\$4,564,267.00
City's Closing Costs:	Land Transfer Taxes – app.	\$66,939.00
	*Non-Refundable HST (1.76%)	\$80,331.00
	Registration Costs –app.	\$100.00
Net Cost to City less *HST		\$4,711,637.00

Total HST on Acquisition of Entire Property \$593,355.00 *(of which \$80,331.00 is non-refundable)

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

The subject property is owned by the Toronto District School Board (TDSB) and was declared surplus to their needs pursuant to the provisions of *Ontario Regulation 444/98* made under the *Education Act, R.S.O. 1990* at its meeting held June 24 and 25, 2009. Pursuant to *Ontario Regulation 444/98* any offers to purchase the above noted property needed to be received by the TDSB by October 28, 2009.

Discussions have been taking place with the TLC since October 2009 to investigate the possibility of the City acquiring only the parking lot lands that make up the above noted property, as they are required for the operation of the Fairfield Seniors' Centre. Several meetings and possible options have been explored since that date, including land exchanges with TLC. A satisfactory solution was agreed to by both parties in May, 2010.

ISSUE BACKGROUND

The subject property is owned by the Toronto District School Board (TDSB) and has been declared surplus to their needs pursuant to the provisions of *Ontario Regulation 444/98* made under the *Education Act, R.S.O. 1990*. Under *Ontario Regulation 444/98* there is a “pecking order” of who has first right to the property. Several educational institutions (TCDSB, French School Board, French Separate School Board, Universities & Colleges and independent schools funded by the Ministry of Education) have priority over the City to these properties if they submit an offer. No other party has expressed interest in the properties the City is pursuing acquisition of.

The subject property has a site area of 3.987 acres (1.61 ha) consisting of 2.97 acres (1.2 ha) of open space lands and 1.01 acres (0.41 ha) of hard surface parking (see Appendix “C”). Prior to amalgamation, former City of Etobicoke purchased the abutting property, former Fairfield Avenue Public School, from Etobicoke Board of Education. This purchase did not include the hard surface parking or open space areas. Parks, Forestry and Recreation, currently operate the Fairfield Seniors’ Centre out of this facility and rely on this parking area to service its patrons.

In order for the Fairfield Seniors’ Centre to meet by-law parking standards and function properly the associated parking area must be acquired by the City. Parks, Forestry and Recreation is committed to the acquisition of the parking lot and TDSB has agreed to sell the parking lot lands to the City.

It should be noted that Parks, Forestry and Recreation can not justify the use of parkland reserves for the purchase of the open space portion of the lands. While there are a number of features that would make this land an attractive addition to the City’s Park and Open Space System, this area already has an adequate level of existing local parkland provision. Parks, Forestry and Recreation have targeted areas of lower parkland provision as a priority for future use of parkland reserves.

Should Council decide to purchase the entire property, TDSB is also willing to consider that option. The acquisition of the entire property is an opportunity that Council may wish to consider at this time using LARF as the temporary source of funding. The local Councillor and surrounding community have expressed a strong desire to acquire this land abutting the existing Fairfield Park and Fairfield Senior’s Centre. The local Councillor has expressed an interest in dedicating development related money to this acquisition. Section 37 funds can be used to acquire parkland. In addition the portion of cash-in-lieu of parkland payments above 5% can also be used to either acquire parkland or develop or maintain existing parkland features. By dedicating these discretionary funds to this acquisition, the use of LARF money can be considered as a bridge loan to allow the City to acquire the land now, in the short time period available. Parks, Forestry and Recreation staff in consultation with Planning staff have determined that there will be substantial development related funds that could be generated in Ward 5 over the next few years. However, there can be no guarantee that these development related funds will be paid to the City at any particular time.

If the City were to acquire the entire property then three years after such purchase, Real Estate Services will report on how much money has been repaid to the Land Acquisition Reserve Fund. If the total amount, less the amount attributed for the parking lot lands has been repaid, it will be clear that the open space lands should continue to be used for parkland purposes. If there is a shortfall, then Real Estate Services would report on other possible alternative land uses that would generate a return to the Land Acquisition Reserve Fund. In order to consider possible alternative land uses on this site, Council would need to authorize an exemption to the existing Official Plan policies regarding Open Space, since these lands are currently so designated.

If Council decides that the City should not purchase the open space lands, then TDSB will have the ability to offer the property on the open market. The property will likely be sold and developed residentially, which will involve the southward extension of Monkton Avenue. If this scenario takes places, then the access driveway to the Fairfield Seniors' Centre located on the south side of the building will no longer be available. A possible secondary access to the parking area could be accommodated off of an extended Monkton Avenue and secured through the development planning process.

COMMENTS

Negotiations with TLC have resulted in agreement for the purchase of the hard surface parking lot area required for the Fairfield Seniors' Centre, substantially on the terms and conditions outlined in Appendix "A-1". Alternatively, if Council so chooses, an agreement has also been negotiated for the purchase of the open space, substantially on the terms and conditions outlined in Appendix "A-2".

Staff consider both Offers to Sell to the City to be fair and reasonable.

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SIGNATURE

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ATTACHMENTS

Appendix "A-1"- Summary of Terms and Conditions – Parking Lot – 80 Lothian Avenue
Appendix "A-2"- Summary of Terms and Conditions – Open Space – 80 Lothian Avenue
Appendix "B" - Location Map - 80 Lothian Avenue
Appendix "C" – Property Delineation – 80 Lothian Avenue
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Appendix “A-1” - Terms and Conditions – Parking Lot - 80 Lothian Avenue

Owner:	Toronto District School Board
Location:	80 Lothian Avenue, Toronto (Appendix “B”)
Legal Description:	Part of Lot 14, 2 nd Meridian Concession, former City of Etobicoke
Approximate Lot Size:	1.01 acres (0.41 ha) of hard surface parking
Improvements:	Hard surface parking area
Zoning:	R2 – (One-Family Detached Dwelling Second Density Zone)
Official Plan:	OR – Open Space Recreational Zone
City Appraised Value:	\$1,735,733.00 for hard surface parking area
Irrevocable Date:	30 days
Due Diligence:	30 business days (with a possible extension of 30 days) following acceptance by the Toronto District School Board
Closing Date:	30 business days following the expiry of the Due Diligence Condition
Deposit:	\$2.00
Conditions:	Satisfactory results of the Due Diligence Condition

COSTS:	<u>Acquisition of Parking Lot Lands</u>	
	Payment to Vendor:	\$1,735,733.00
	City’s Closing Costs (approximately):	
	Land Transfer Tax	\$ 24,511.00
	Non-Refundable HST (1.76%)	\$ 30,549.00
	Registration Costs	<u>\$ 100.00</u>
	Total Closing Costs	\$ 55,160.00
Total Acquisition Costs of City	\$1,790,893.00	

Total HST on Acquisition \$225,645.00 *(of which \$30,549.00 is non-refundable)

Appendix “A-2” - Terms and Conditions – Open Space -80 Lothian Avenue

Owner: Toronto District School Board

Location: 80 Lothian Avenue, Toronto (Appendix “B”)

Legal Description: Part of Lot 14, 2nd Meridian Concession and Block A, Plan 4558 former City of Etobicoke

Approximate Lot Size: 2.97 acres (1.2 ha)

Improvements: Vacant land

Zoning: R2 – (One-Family Detached Dwelling Second Density Zone)

Official Plan: OR – Open Space Recreational Zone

City Appraised Value: \$4,564,267.00

Irrevocable Date: 30 days

Due Diligence: 30 business days (with a possible extension of 30 days) following acceptance by the Toronto District School Board

Closing Date: 30 business days following the expiry of the Due Diligence Condition

Deposit: \$2.00

Conditions: Satisfactory results of the Due Diligence Condition

COSTS:

<u>Acquisition of Parking Lot Lands</u>	
Payment to Vendor:	\$4,564,267.00
City’s Closing Costs (approximately):	
Land Transfer Tax	\$ 66,939.00
Non-Refundable HST (1.76%)	\$ 80,311.00
Registration Costs	\$ 100.00
Total Closing Costs	\$ 147,370.00
Total Acquisition Costs of City	\$4,711,637.00

Total HST on Acquisition \$593,355.00 *(of which \$80,311.00 is non-refundable)

Appendix "B"
Location Map – 80 Lothian Avenue



