

Plans for Development of Blocks 31 and 18AB of the Railway Lands

Date:	October 22, 2012
To:	Executive Committee
From:	City Manager
Wards:	20, Trinity Spadina
Reference Number:	P:\2012\Internal Services\Re\Ec12024re - AFS 14981

SUMMARY

In 2011, Toronto Community Housing (TCH) requested it be released from the agreements of purchase and sale it entered into with the City with respect to Blocks 31 and 18AB within the Railway Lands. On October 3, 2011, Executive Committee in considering this matter requested that the City Manager in consultation with the Chief Corporate Officer report back providing further information on the plans for the future disposition of Blocks 31 and 18AB of the Railway Lands.

This report outlines the proposed direction on Block 31 and recommends preliminary steps in proceeding with the planned development of two elementary schools, a community centre, a daycare and affordable housing on this property and an adjoining 30 m strip of parkland (the Adjacent Lands) under the management of the Deputy City Manager of Cluster "A".

The report also recommends that Real Estate Services (RES) assume the management of the northern portion of Block 18AB until its future disposition is determined through the Property Management Committee (PMC) process.

RECOMMENDATIONS

The City Manager recommends that:

1. City Council authorize and direct the Deputy City Manager of Cluster "A" to assume the management of Block 31 of the Railway Lands and the Adjacent Lands and develop a plan for the delivery of the community facilities and affordable housing on this property.
2. City Council authorize and direct the Deputy City Manager of Cluster "A" to develop an acceptable development concept and delivery agreements with the Toronto District School Board (TDSB) and Toronto Catholic District School Board (TCDSB) to achieve the planning and public interest objectives for Block 31 and the Adjacent Lands as set out in the Railway Lands West Secondary Plan and report to Council on a timely basis to obtain the necessary approvals to proceed.
3. City Council authorize and direct:
 - i. Real Estate Services to assume the management of Block 18AB (299 Bremner Boulevard portion) until its future disposition is determined through the PMC process and a report to Government Management Committee and City Council, if required; and
 - ii. Toronto Water to maintain the management of Block 18AB (28 Rees Street portion).
4. City Council authorize funding of \$200,000 from the Development Levy Trust account XT6104 to undertake a Phase I and Phase II Environmental Assessment of Block 31 and Adjacent Lands, undertake a monitoring program on the site and undertake required activities to file for a Record of Site Condition (RSC) that may include a Risk Assessment so that development of the site can proceed expeditiously. This funding is to be adjusted for in the final project budget through a pro-rata cost-sharing arrangement with the TDSB, TCDSB and the affordable housing project.
5. City Council authorize and direct the Chief Planner and Executive Director, City Planning to initiate an Official Plan Amendment to exempt the Adjacent Lands (designated Parks and Open Space) from the restriction of Official Plan Policy 4.3.8, so that some or all of these lands may be disposed of through a long-term lease to the TDSB and TCDSB consistent with the intent in the Railway Lands West Secondary Plan.
6. City Council authorize and direct the City Manager to enter into negotiations with the stakeholders to amend the Development Levy Trust Agreement executed in 1994, to extend the time frame for the build out of the community infrastructure on Block 31 and the Adjacent Lands, should additional time be required.

7. City Council direct the Deputy City Manager of Cluster "A" in conjunction with the Deputy City Manager and Chief Financial Officer to report to the Budget Committee either through the capital and operating budget processes or by separate report on the required funding for the City's facilities and other requirements including environmental remediation and identifying sources of funding.

Financial Impact

As these properties have been under the authority of TCH for the past five years (subject to the tenancy of Block 18AB), there has been no financing commitment provided for the improvement and development of these City lands in the City's capital budget, other than \$8,359,000 in the Parks Forestry & Recreation (PF&R) capital budget to complete the funding of the planned community centre. Development levies have been collected from the developments within the Railway Lands Central and West to fund the construction of the schools and community centre:

Levy Trust Account	COLLECTED	PROJECTED	TOTAL
Community Centre (XT6104)	\$4,276,822	\$1,184,431	\$5,461,253
Schools (214044)	\$26,105,661	\$5,378,192	\$31,483,853
Total	\$30,382,483	\$6,562,623	\$36,945,106

The 1994 Development Levy Trust Agreement sets out a time frame for the expenditure of these levy funds in the completion of the community infrastructure, that is within 5 years of reaching a threshold amount of above-grade gross floor area in the Railway Lands Central and West. It is expected that the building permits for this threshold gross floor area will be issued by the end of the year. Consequently, it is urgent that the implementation steps for the development of the community infrastructure on Block 31 be initiated this year.

Additional funds have been collected from recent Railway Lands Central and West developments that are not subject to any construction deadline in the amount of \$2,030,154. The City has also secured funding for the day care facility, in the amount of \$3,040,000 (including a Letter of Credit received from Concord Adex and the terms of approval of another developer).

Preliminary cost estimates indicate that all of the development levies will be drawn down for the construction of the community infrastructure on Block 31 and other funding may have to be drawn upon to completely finance these facilities as well as the necessary site preparation. The school boards have indicated that they will also be drawing on funds received from developments in the surrounding areas including Harbourfront and lands west of Bathurst Street to finance the construction of the schools at this location.

One area in which funding (estimated as \$200,000) is required, prior to the project budget being established for the construction of the community facilities, is for a Phase 1 and 2 environmental assessment to determine the extent of contamination of the property, to estimate clean-up costs based on alternative methodologies, and undertake a monitoring program and activities to file for a RSC. It is recommended that these funds be drawn from the community centre Levy Trust Account XT6104. The costs of the environmental assessments, remediation, RSC and risk assessment activities for the property would be cost-shared on a pro-rata basis by the parties and adjustments made in the project budget to compensate for this advancement of funds from the PF&R account.

It is recommended that the Deputy City Manager of Cluster "A" and the Deputy City Manager and Chief Financial Officer report back to Budget Committee when all costs to develop Block 31, including the community facilities, affordable housing and other costs are known and sources of funding have been identified.

DECISION HISTORY

On April 12, 13, and 14, 2005, City Council adopted Report No. 4, Clause No. 36 of the Policy and Finance Committee which approved Toronto Community Housing as agent for the City to conduct due diligence, feasibility site plan and other pre-development studies required to develop affordable housing on the City's Block 31, 32, 36, 18AB of the Railway Lands.

<http://www.toronto.ca/legdocs/2005/agendas/council/cc050412/pof4rpt/cl036.pdf>

On July 16, 17, 18, and 19, 2007, City Council adopted EX10.34 as amended, which authorized the Director of Real Estate Services in consultation with the Director of Development, Affordable Housing Office (AHO), to negotiate and enter into Offers to Sell Block 31, 32, 36 and 18AB to TCH.

<http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-07-16-cc11-dd.pdf>

On August 4, 2009, the Director of Community Planning, Toronto and East York District, reported to the Toronto and East York Community Council on the re-zoning application and preliminary report submitted by TCH regarding 419 Fort York Blvd (Block 31 Railway Lands West)

<http://www.toronto.ca/legdocs/mmis/2009/te/bgrd/backgroundfile-23177.pdf>

On October 3, 2011, Executive Committee referred Item EX11.14 "Release of Blocks 31 and 18AB in the Railway Lands (Item AH3.2)" to the City Manager to report back in conjunction with the Chief Corporate Officer within six months providing further information on the plans for the future disposition of Blocks 31 and 18AB.

(September 13, 2011) Letter - Release of Blocks 31 and 18AB in the Railway Lands

<http://www.toronto.ca/legdocs/mmis/2011/ex/bgrd/backgroundfile-41195.pdf>

ISSUE BACKGROUND

In 1994, to implement the planning approvals of the Railway Lands, Canadian National Railways (CN) transferred Blocks 31, 32, and 36 to the City for the purpose of providing affordable housing and community infrastructure (see attached Appendix A Map). TCH has undertaken the development of 427 affordable rental homes on Block 32 and 87 new affordable ownership homes and a library on Block 36. Although in 2009 TCH had advanced a development proposal and a community consultation process on Block 31, as of June 16, 2011, TCH advised that it could not proceed with this development or with that of Block 18AB.

Block 31

Agreements signed by the City, the school boards and CN (succeeded by Concord Adex) in 1994 provided for development levy revenue to be collected from all development within the Railway Lands Central and West to finance the construction of a community centre and elementary schools for both TDSB and the TCDSB. By the time all of the levies are collected, approximately \$37 million will be available to finance these community facilities. The Development Levy Trust Agreement requires that the development levies be expended in the construction of these facilities within a specific time-frame, five years, after building permits for a threshold amount of above-grade gross floor area, 683,000 m² (7,351,991 ft²) is reached in the Railway Lands Central and West or the levies are to be returned to those who paid them. The threshold level of gross floor area is expected to be reached by the end of the year.

The TDSB and TCDSB have real concerns with the limited time frame still available to undertake detailed design and construction of the facilities and are anxious to proceed as soon as possible. As much of the Railway Lands is now built out, the new community is without local access to schools, daycare, and public recreational facilities. Furthermore, the undeveloped site remains a void in the quickly evolving local neighbourhood fabric.

The stakeholders in the development of Block 31 and the Adjacent Lands signed an Umbrella Agreement dated October 21, 1994, setting out the framework for sharing the development process and the future multi-use facility on the site. The Umbrella Agreement contemplated that the City would be the landlord of the property and the TDSB and TCDSB would hold perpetual leases at a nominal rent for their facilities and that reciprocal agreements would be entered into by all parties for the maintenance and operation of the shared spaces.

Block 18AB

Block 18AB was part of a larger holding of Metropolitan Toronto that was developed with the John Street Pumping Station and a works yard. Through multiple agreements with CN, Metropolitan Toronto leased its lands to Stadium Corporation of Ontario Limited for the development of the dome stadium and the works yard and pumping station were relocated and reconstructed at CN's cost. Consequently, the northern portion of Block 18AB, 299 Bremner Boulevard, is subject to three lease agreements and an

encroachment agreement providing for rights of use for a ramp and service access related to the Rogers Centre and CN Tower and an area of open space occupied by a billboard sign. A proposed housing development on 299 Bremner Boulevard was refused by the Ontario Municipal Board in 2004 and the property remains designated for commercial uses. The southern portion of Block 18AB, 28 Rees Street, is occupied by the relocated John Street Pumping Station.

COMMENTS

Block 31 and Adjacent Lands Development

Block 31 is an approximately 2 acre parcel located south of Fort York Boulevard and west of Brunel Court, which has been assigned a municipal address of 20 Brunel Court. The Official Plan and Zoning By-law for the Railway Lands West mandate the use of the site for a community centre, public and separate elementary schools, a day care centre and affordable housing. Market housing is permitted but not required.

The planned size of the community services are approximately as follows:

Community Centre	38,000 ft ²	
Day Care	7,500 ft ²	52 children
TDSB elementary school	55,000 ft ²	500 students
TCDSB elementary school	<u>55,000 ft²</u>	500 students
Total	155,500 ft ²	

Independently, each of these community services would typically require a 2 or more acre site. Clustering these four community services on this site requires each party to operate on multiple levels, integrate with other users and to share playground areas, underground parking and loading, site access, stairwells, corridors etc. The schools, community centre and daycare need as much at-grade space on the site as possible.

Some site flexibility is provided in the Railway Lands West Secondary Plan, which allows the Adjacent Lands, approximately 1 acre in size, to be incorporated with Block 31 into the development site for the community infrastructure. The Adjacent Lands are zoned, G, for Parks and Open Space uses that may include a "joint use facility" as defined in the Railway Lands West Zoning By-law, subject to the restriction that the height of any development on the Adjacent Lands does not exceed the elevation of Fort York Boulevard.

The characteristics of the affordable housing component need to be carefully considered as part of the overall development concept in order to integrate well with the community services, including: size of building, configuration, orientation and setbacks. These considerations are important in order to make the best use of the affordable housing parcel.

Due Diligence Review

Since the fall of 2011, Build Toronto has contributed its development expertise and led a due diligence review and analysis process of the development options for the property with the other stakeholders. Build Toronto has invested staff resources and funds in a cost consultant and architectural concepts to assess the feasibility of Build Toronto undertaking and expediting this project by incorporating two high rise residential buildings as part of the development. Numerous meetings have been held with the stakeholders to work towards a mutually acceptable development concept.

The primary conclusion of this assessment is that accommodating all of the required public uses on the site with the addition of a market housing component results in unacceptable financial risk and unacceptable program compromises by the user groups. In particular, the site area is too limited to accommodate all of public uses and two high rise residential buildings on separate parcels. The parties have agreed that it is best for the entire site to be developed for public uses consistent with the original Railway Lands West planning policies. Build Toronto is considering the construction of one affordable housing building to fulfill part of its larger mandate.

Project Lead

As a result of the due diligence by the parties and given the deadline for the delivery of the community infrastructure, it is proposed that the Deputy City Manager of Cluster "A" oversee the delivery of the community facilities and one affordable ownership building on this property working in conjunction with the school boards. A steering committee composed of TDSB, TCDSB, PF&R, Children Services, and AHO would jointly manage the delivery of the community infrastructure through design and site plan approval and retain architectural, project management and construction services to complete the project. AHO and Build Toronto would participate in the steering committee with respect to the affordable housing requirements until the site plan approval is complete and the portion of the property (above and below grade) assigned to affordable housing has been delineated.

When the final development concept is resolved by the stakeholders and prior to proceeding, City Council approvals would be sought to enter into the leases and reciprocal agreements between the parties and to declare surplus and set terms of transfer for the housing parcel. If Build Toronto is satisfied with the projected costs and market timing it may take responsibility for issuing a proposal call for the delivery of the affordable ownership housing component. Otherwise, AHO would seek City Council authority to issue a competitive proposal call to select a developer to construct and market the affordable home ownership building.

Environmental Issues

Environmental issues are a common aspect of the Railway Lands developments and most of the properties in this neighbourhood have required a risk assessment process to secure an RSC for construction to commence. In order to obtain a RSC for this property, a Phase 1 and Phase 2 Environmental Assessments must be undertaken to meet the new Ministry

of Environment's (MOE) Guidelines. Monitoring of ground water may be required for a period of time if contamination is found within the property. It is anticipated that the most cost effective remediation would be a Risk Assessment process, but that would require a minimum of 2 years to complete MOE requirements. Consequently, it is critical that the environmental assessments be commenced immediately.

It is estimated that the above scope of work will require a budget of \$200,000 initially and that further funding in the project budget will be required to complete the remediation program and secure the RSC. The future occupants of the property would cost-share the environmental investigations, remediation and securing of an RSC on a pro-rata basis with an initial allocation based on the proportion of the property area allocated to community services and the proportion for affordable housing (e.g. 75% / 25%) and then based on a square foot basis of the floor area of the respective stakeholders in the multi-use facility.

Policy Restrictions on the Disposition of Parklands

Notwithstanding that the Railway Lands West Secondary Plan approved in 1994 provides for the construction of schools within the Adjacent Lands, Section 4.3.8 of the current Official Plan does not allow the City to dispose of parklands. The 99 year lease term to the school boards provided for in the Umbrella Agreement is deemed to be a disposition of parkland, and consequently, a technical amendment to the Official Plan is required to exempt this property from policy Section 4.3.8. It is recommended that this technical amendment be initiated by City Planning.

Block 18AB

Block 18AB is located south of the Rogers Centre and Bremner Boulevard and west of Rees Street. It is comprised of two distinct parcels. The northern parcel, known as 299 Bremner Boulevard is developed with a ramp providing the service and loading access to the Rogers Centre and CN Tower, under Bremner Boulevard, and a billboard sign that advertise events being held at the Rogers Centre. This parcel is leased to Stadium Corporation of Ontario Limited (now assigned to Canada Lands Company CLC Limited and subleased to Rogers Stadium Limited Partnership) for a term ending in 2088 in three separate agreements and generates \$60,000 in annual rent. The lease agreements were amended in 2005 to clarify that development rights on the property remain with the City and may be utilized for construction on the western portion of the property and over the ramp lands subject to minimizing disruption to the ramp access and cost-sharing arrangements. 299 Bremner Boulevard is subject to a height limit of 30 m intended to preserve the City of Toronto skyline view of the Rogers Centre and CN Tower.

In the event the development rights of the property were disposed of, the City could generate significant sale revenue and forego the annual rental income. Signage at this location is restricted to advertising events at the Rogers Centre and if a broader range of third party advertising were permitted, a higher rent could be generated. This being the case, RES is reviewing the options for maximizing/monetizing this asset. It is

recommended that the disposition of 299 Bremner Boulevard be reviewed and considered by PMC.

The southern parcel, 28 Rees Street, is fully developed with the John Street Pumping Station, a critical element of municipal infrastructure, which is not surplus to municipal requirements. Consequently, it is recommended that 28 Rees Street be retained in City ownership under the control of Toronto Water.

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ATTACHMENT:

Appendix 1 – Map of Railway Lands Central and West