



TORONTO STAFF REPORT

January 16, 2006

To: Policy and Finance Committee

From: City Manager

Subject: Bridgepoint Health Centre Redevelopment
Ward 30 Toronto-Danforth

Purpose:

To report on options available to ensure the protection of City interests as the redevelopment of Bridgepoint Health Centre moves forward.

Financial Implications and Impact Statement:

There are no financial implications associated with this report. The City staff report on the financial implications to the City of the Bridgepoint development proposal, including rehabilitating and maintaining two heritage buildings that may be transferred to City ownership as well as costs related to a proposed new City park and the impact of the eventual land exchange, sale and amendment to the existing long term lease involving City land, will be submitted to Policy and Finance Committee once these matters have been determined.

Recommendations:

It is recommended that this report be received for information.

Background:

Bridgepoint Health (formerly known as the Riverdale Hospital) has evolved over the last 140 years into an extensive, integrated health care organization for specialized complex care services. It is currently comprised of five distinct health service organizations including Bridgepoint Hospital, Bridgepoint Centre of Living, a long-term care centre for people requiring a high level of care, Bridgepoint Community Rehab - community based rehabilitation services, Bridgepoint Health Research Institute - the only long-term and complex continuing care applied research facility in Canada as well as a fundraising arm, known as Bridgepoint Health Foundation. The current hospital must update its facility to ensure it remains a leader in and provider of complex care services.

The site includes lands owned by Bridgepoint Health, lands owned by the City of Toronto that are under long term lease to Bridgepoint Health as well as City park lands. A proposed land exchange is contemplated that would result in a new City park containing the historic Governor's House, and gate Keeper's House located south of the historic Don Jail, the relocation of the historic St. Matthew's Lawn Bowling Clubhouse and the realignment of the Don Jail Roadway. The proposal also contemplates certain other land transactions involving City lands currently leased to Bridgepoint. The city-owned lands proposed to be disposed have been formally declared by City Council as surplus to the City's requirements.

The key components of the Bridgepoint proposal include:

- the construction of a new hospital with accessory uses and adaptive reuse of the historic Don Jail building;
- the demolition of the existing building occupied by Bridgepoint Health (formerly known as Riverdale Hospital); and
- the creation of four independent development parcels.

During the December 14th to 16th, 2005 Council meeting, Toronto City Council approved four reports related to the overall redevelopment proposal for Bridgepoint Health Centre. These reports included:

- the status report from the Director of Community Planning Toronto and East York District on the development proposal submitted to the November 15th meeting of the Toronto and East York Community Council;
- the report from the Director of Policy & Research, City Planning, dated October 20, 2005, on the designation of the St. Matthews Lawn Bowling Club and treatment of heritage properties as part of the redevelopment proposal also submitted to the November 15, 2005 meeting of the Toronto and East York Community Council;
- the report from the Chief Corporate Officer, dated October 27, 2005, to declare portions of the City property located at 548 Gerrard Street East and 14 St. Matthews Street surplus to municipal requirements, submitted to the November 7th Administration Committee meeting; and
- the report from Deputy City Manager Fareed Amin, dated November 2, 2005, providing an overview of the Bridgepoint Health development proposal, highlighting the significance from a City-wide perspective, ensuring all reports detailing elements of the proposal be considered together as part of the ongoing comprehensive discussion on the issues surrounding the proposal.

As a result of these reports, City Council directed the City Manager to report on the following matters:

- options outlining how the City can ensure that Parcel B (Attachment 1) is developed for appropriate public, non-profit use or social uses;

- options for a long term care facility to be built and operated in co-operation with the City;
- options whereby the possible sale value of Parcel A (Attachment 1) go toward the future use for Parcel B;
- how the City can ensure that the current collective agreements regarding Local 79 are maintained with the redevelopment of Bridgepoint Hospital; and
- the nature of hospital financing and the impact this may have on continued public operations of Bridgepoint Hospital.

On January 17, 2005 Toronto and East York Community Council considered the Final Planning Report from the Director of Community Planning, Toronto and East York District. The report reviewed and recommended approval of the Official Plan and Zoning By-law amendments proposed to allow comprehensive redevelopment of the lands within the block bounded by Broadview Ave., Gerrard St, East, Riverdale Park and Don Valley Parkway (excluding the Riverdale Library). The zoning contemplates use of holding provisions until the subdivision, heritage and necessary land transaction agreements have been finalized with the City and further that notice of conditions of approval have been issued with respect to the site plan proposed for the hospital building. The Bridgepoint proposal contemplates a phased development starting with the new hospital and adapted reuse of the historic Don Jail. It provides for the integration of this block back into the neighbourhood by permitting a mix of uses, realigning the existing Don Jail Roadway, relocating the City park and proposing urban design guidelines to illustrate and guide desired urban design concepts. The report also recommended Council's support of the draft plan of subdivision and conditions of approval.

Toronto and East York Community Council referred the Final Planning Report to City Council without amendment and requested a community meeting be held in conjunction with City staff and Bridgepoint to address some of the unresolved issues around the proposed development.

Comments:

Ensuring Parcel B is developed for appropriate public, non-profit, long term care or social uses.

On December 14, 2005 City Council adopted a report from the Chief Corporate Officer seeking authority to declare surplus to municipal requirements part of 548 Gerrard St. East and part of 14 St. Matthews Road, and to undertake negotiations with Bridgepoint Health for a land transaction which could include a land exchange, a sale and an amendment to the existing long-term lease.

A group of City staff led by the Director of Real Estate have begun negotiations on the land transaction with Bridgepoint. These negotiations must balance Bridgepoint's ability to move forward with its comprehensive redevelopment plan while protecting the City's potential long term interest in the portion of the site currently within City ownership.

The most effective way for the City to retain some control over future redevelopment of Parcel B is through the continued ownership and lease of its land. For the time being, Parcel B will remain under the City's ownership, leased to Bridgepoint Health. Bridgepoint has requested the City to consider a new long-term lease on Parcel B. If the parties agree, the lease can be amended to add a variety of provisions to address the options being contemplated.

Currently, the lease provisions related to permitted uses restrict Bridgepoint Health to use the lands for a public hospital and/or long term care facility and related facilities or services (e.g. laboratories, research facilities, pharmacies and dispensaries), and may include facilities for persons requiring nursing care, residences for elderly and/or incapacitated people, and related support services such as recreation, cultural and/or educational activities. Associated retail uses such as gift shops, coffee shops, etc. are also permitted as long as Bridgepoint Health remains a not for profit organization or that the use of the property is operated on a not for profit basis. Not for profit community services such as a preschool or daycare would also be permitted. If Council were to determine that additional public, non-profit uses would be appropriate, and if Bridgepoint Health were interested in operating such uses on the site, those uses could be added to the list permitted under the lease. At the time that Parcel B is available for redevelopment, Bridgepoint could proceed subject to permitted uses under the lease.

It would also be possible to amend the lease to narrow the list of permitted uses, if Council felt that some of the activities currently permitted would not be an appropriate use of Parcel B at the time of redevelopment.

A combined approach would be to create a narrower list of uses in the lease that Bridgepoint Health could develop without Council approval, but to require Bridgepoint to obtain Council's approval for any other sort of redevelopment of Parcel B.

If Council wants to have greater certainty over what happens to the site of the half round building when it is no longer required by Bridgepoint Health, it would be necessary to amend the lease in other ways. For example, the City could have the lease of Parcel B terminate once the half round building has been demolished. At that point, the City would have complete control over Parcel B – the City could either develop it, or sell or lease it to a third party or to Bridgepoint Health for uses determined by the City to be appropriate at that point in time.

On January 5th the General Manager of Homes for the Aged and staff from the City Manager's Office met with the CEO of Bridgepoint to discuss how Bridgepoint and the City could co-operate to ensure that a long-term care home is built and operated as part of the redevelopment. Given the City's reputation for excellent delivery of long term care, Bridgepoint Health indicated a desire to potentially partner with the City on a long term care option in the future.

If Council wants to maintain the option to co-operate with Bridgepoint Health in determining the best way for a long-term care home to be included in the redevelopment, continued City ownership and lease of the land is the most effective way. The lease could be amended to require Bridgepoint to give the City a right of first refusal to redevelop Parcel B. This arrangement would work as follows: Bridgepoint would be required to negotiate first with the City, before engaging in discussions with other potential partners and together Bridgepoint Health and the City could explore the possibility of developing a long term care home.

A number of issues, some of them very complex, would have to be considered in structuring how a right of first refusal would work. These issues include the timing for various steps to be taken, funding for construction and operation of the facility, how the design of the building would be

determined, who would construct it, who would own the building, what the relationship of the parties would be, the availability of operating licenses, etc. To the extent that these issues may not or cannot be sorted out in advance, the right of first refusal would provide for a (relatively short) period of time for the City and Bridgepoint Health to negotiate the matters and reach an agreement. If no agreement could be reached, Bridgepoint would then be permitted to approach third parties. However, if at the time of redevelopment of Parcel B, Bridgepoint was of the view that other uses for Parcel B would be preferable to a long term care home, the parties would have to determine if the right of first refusal would still arise. It should also be acknowledged that Bill 36, the Local Health Integration Network (LHIN) Act, may have relevance to the future redevelopment. Bridgepoint and the City of Toronto may wish to meet periodically with LHIN representatives as planning is solidified, to ensure that the interests of both parties and the community are considered in ongoing LHIN deliberations.

In the current context, although these are options which could be explored in the negotiations with Bridgepoint Health, negotiations are in the preliminary stages and a decision to adopt any one of these options at this time could jeopardize discussions on a number of other elements which might be included as part of the land exchange.

City's Policy on Land Transactions and Proceeds from Sale of Surplus City-owned Real Property

City Council requested staff to look at options whereby the possible sale value of Parcel A could go to the future use for Parcel B (Attachment 1).

As approved at the December 14th and 16th Council meeting, the report from the Chief Corporate Officer concerning the declaration of surplus property necessary to effect Bridgepoint's hospital redevelopment recommended that:

“Authority be granted to the Chief Corporate Officer to enter into negotiations with Bridgepoint Health, and that staff explore a full range of options from nominal sum transaction to market value transaction, for a land exchange, sale and amendment to the existing long-term lease, and any other agreements deemed appropriate”.

By way of such authority, the sale of the City's land to Bridgepoint could result in little or no sales revenue being realized. Alternatively, if sales revenues are realized, they would be subject to the City's Policy on Land Transactions among City Agencies, Boards, Commissions and Departments and Proceeds from Sale of Surplus City-owned Real Property. This policy was formally authorized by City Council by its adoption of Clause No. 1 of Report No. 9 of the Policy and Finance Committee, at its meeting held on June 18, 19 and 20, 2002.

The property is under the responsibility of the Chief Corporate Officer and has been leased, for nominal consideration to Bridgepoint Health and its predecessor, The Board of Governors of the Riverdale Hospital, since 1964. Within the aforementioned Proceeds Policy, the net proceeds from a sale shall be deposited in the City's Land Acquisition Reserve Fund to fund future capital requirements.

The Policy further states that where City land is sold, (unless outstanding debenture debt remains from acquiring the property, or other specific legal requirements) no portion of net proceeds shall be directed or otherwise allocated to other specific initiatives or programs. However, the Policy also acknowledges that in exceptional circumstances, or circumstances not contemplated in the policy, specific direction may be sought from Council. Furthermore, a provision in the policy also states that nothing in the policy prevents the transfer of title to lands for nominal consideration between the City and other organizations.

Negotiations on the terms and conditions of the proposed land transactions, including all financial details, are currently underway. At this time it is premature to know whether the City will realize sales revenue or what amount such revenue may be. In the course of negotiations consideration will be given to all aspects of this comprehensive proposal which includes advantages for Bridgepoint as well as ways to advance the City's objectives. Once staff have successfully negotiated a recommendable Offer to Purchase, land exchange transaction, and lease agreement, Council may wish to consider implementing an exception to the Policy. Staff anticipate the report detailing the terms and conditions of the land transactions will come forward to Council in April 2006.

Maintaining the current collective agreement regarding Local 79 with the redevelopment

The City is not a party to the current collective agreement between Local 79 and Bridgepoint Hospital and, accordingly, has no legal ability to ensure the collective agreement is maintained. However, in general, a redevelopment may have the following labour relations consequences:

Addition of New Positions or Classifications

A redevelopment may result in the addition of new, non-excluded positions or classifications. Any such additions would likely be encompassed by the current bargaining unit description set out in the recognition clauses of the Local 79 collective agreements. Local 79 would also be entitled to arbitrate any disputes about the inclusion of new classifications in the bargaining unit or about the rate of pay established for such classifications.

Contracting Out of Existing Bargaining Unit Work

A redevelopment may result in the contracting out of existing bargaining unit work. However, both of the Local 79 collective agreements with Bridgepoint Hospital contain provisions restricting the contracting out of bargaining unit work. The Service collective agreement prohibits any contracting out of bargaining unit work that would result in the layoff of any employees other than casual part-time employees. However, it is not a breach of the contracting out clause if the work is contracted out to a unionized employer who employs the affected employees on similar terms and conditions of employment. The Nurses and Paramedical collective agreement prohibits any contracting out that would result in the layoff or reduction of hours of bargaining unit employees.

Sale or Transfer of All or Part of Business

If a redevelopment results in the sale or transfer of any part of the operations of Bridgepoint Hospital, the successor rights provisions of the *Labour Relations Act, 1995* (the “Act”) will protect the collective bargaining rights of Bridgepoint employees in most circumstances. Section 69 (2) of the Act provides:

“Where an employer who is bound by or is a party to a collective agreement with a trade union or council of trade unions sells his, her or its business, the person to whom the business has been sold is, until the Board otherwise declares, bound by the collective agreement as if the person had been a party thereto and, where an employer sells his, her or its business while an application for certification or termination of bargaining rights to which the employer is a party is before the Board, the person to whom the business has been sold is, until the Board otherwise declares, the employer for the purposes of the application as if the person were named as the employer in the application”.

The word “sells” is broadly defined to include leases, transfers, and any other manner of disposition. The word “business” includes a part of the business.

Accordingly, if a new employer were to emerge as a result of the redevelopment, Local 79 would normally continue to be the certified bargaining agent for the employees of Bridgepoint Hospital and the new employer would be bound by the terms and conditions of the existing collective agreement, including restrictions on contracting out. However, if the new employer is already party to a collective agreement with another union, it is possible that Local 79 could be displaced by the other union, although current employees of Bridgepoint Hospital would continue to be unionized and subject to the terms of another collective agreement.

The nature of hospital financing

On December 16, 2005, the Honourable David Caplan, Minister of Public Infrastructure Renewal announced the Government of Ontario’s commitment to build a new complex-care and rehabilitation hospital at the current Bridgepoint location. Details on the funding ratio or conditions of the agreement have not been made available publicly, although within the \$238 million proposed redevelopment, a 62/38 funding ratio is currently being assumed. It is the City’s understanding that the Province is awaiting approval from City Council on the Final Planning Report before undertaking the next phase of financing discussions with Bridgepoint.

The Ministry of Health and Long Term Care (MOHLTC) administers the health care system and regulates hospitals in the Province of Ontario. In 2005 the Province announced that the funding of major infrastructure projects, as would be the case for the Bridgepoint Hospital redevelopment, would be coordinated by the Ministry of Public Infrastructure Renewal (PIR). The funding of ongoing hospital operations would remain under the jurisdiction of MOHLTC.

In May 2005 PIR issued a five-year infrastructure investment plan for the province under the title ReNew Ontario. Under the plan, the government of Ontario and its partners will invest \$30 billion worth of public infrastructure in Ontario in the next five years. The plan specifically notes that the average age of hospitals in Ontario is 40 years and many are reaching the end of their useful lives. Funding for over one-hundred projects to upgrade existing hospitals and build new ones in the province will total \$5 billion over the five-year period.

The funding partners the province intends to engage would come from the broader public sector, including Ontario public pension funds, and from the private sector, when and where appropriate. The use of funding partners would be based on what the province calls its alternative financing and procurement strategies. The strategies would allow the province to employ private capital, expertise and efficiencies to build more infrastructure during the next five years than possible under traditional government project funding, and to complete the work on time and on budget.

Alternative financing would provide for the amortization of infrastructure assets so the province could repay, with public funds, the cost of a hospital for example, over its expected 40 year-life. Concern over health care and hospital privatization has prompted the province to note in the ReNew Ontario plan that, *“Regardless of how we finance our hospitals, they will be public hospitals, owned by the people of Ontario and controlled by public hospital boards.”*

As indicated previously, in the funding announcement on December 16, 2005, there was no reference to the cost of the project or specifics of the funding arrangements, however, it is important to note that the press release did state: *The Government of Ontario has approved the Bridgepoint Health redevelopment project as an alternative financing and procurement project. This means the construction work will be financed and carried out by the private sector, which will assume the financial risks for ensuring that the project is finished on time and on budget. The completed facility will be publicly owned, publicly controlled and publicly accountable.*

Conclusions:

This report attempts to answer several questions posed by City Council to ensure the interests of the City are protected as the redevelopment of Bridgepoint Health Centre proceeds including: options available to ensure the redevelopment considers social, public and/or long term care uses on the site; ways to ensure the current collective agreement with Local 79 is maintained; and consideration as to how the current hospital financing proposal may impact on the continued public operation of the hospital. Staff of the City Manager’s Office worked in cooperation with staff from Finance, Legal and Labour Relations to address these questions.

At this time it is not recommended that City Council take a position regarding the land transaction but to allow the normal staff process to continue. It is anticipated that staff will report to Council in April 2006 on recommendable agreements. As part of these ongoing discussions City staff will balance the City’s future interest with Bridgepoint’s ability to move forward with its redevelopment, while determining ways the City can assist and contribute to this significant development opportunity for Toronto.

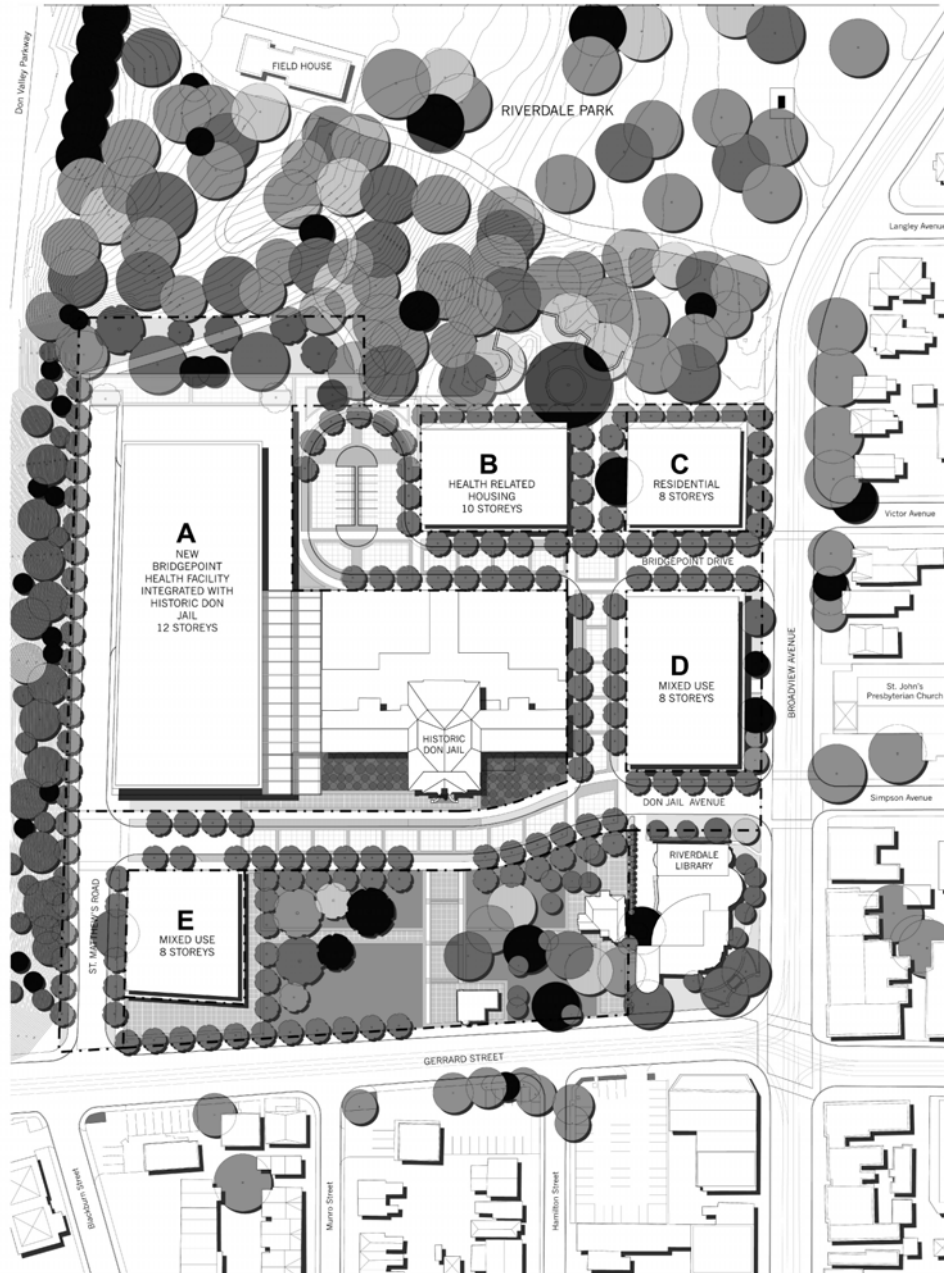
Contact:

Joan Taylor
Manager Corporate Issues and Council Liaison
Executive Office
City Manager's Office
416-392-4995
jtaylor2@toronto.ca

Shirley Hoy
City Manager

List of Attachments:

Attachment 1: Comprehensive Community Master Plan - Site Plan



Comprehensive Community Plan

Applicant's Submitted Drawing

Not to Scale
10/18/04



**14 St Matthews Rd, 548,550,558 &
(562) Gerrard St East & 430 Broadview Ave**

File # 04_168285