

Transfer of 2530 Gerrard Street East to Build Toronto

Date: January 4, 2017

To: Government Management Committee

From: Chief Corporate Officer

Wards: 36 – Scarborough Southwest

SUMMARY

This report recommends the terms of transfer to Build Toronto of 2530 Gerrard Street East. (the "Property").

By its adoption of GM20.6 on April 3 and 4, 2013, Council endorsed the enhanced process for property transfers to Build Toronto to augment the declare surplus and disposal process by, among other things, inclusion of City Planning on staff teams considering property transfers and earlier and ongoing communication between Real Estate Services and the local Councillor, City Planning and Build Toronto. This process has been implemented with respect to the Property in this report.

The Property is being reported on independently to enable Build Toronto to develop it together with adjoining properties as a contiguous development parcel.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council grant authority to enter into an agreement to transfer the property municipally known as 2530 Gerrard Street East ("the Property"), as described in Appendix 2 of this report, including any related agreements, to Build Toronto, substantially on the terms and conditions as set out in Appendices 1 and 2 of this report, and on such other and amended terms and conditions as may be approved by the Chief Corporate Officer, in a form satisfactory to the City Solicitor.
2. City Council grant authority to the Chief Corporate Officer to permit Build Toronto to engage in licensing and leasing activities in respect of the Property that is or becomes the subject matter of an executed transfer agreement, during the period prior to the closing of the transfer transaction, on terms and conditions as may be approved by the Chief Corporate Officer, in a form satisfactory to the City Solicitor.

3. City Council grant authority to fund the City's outstanding expenses related to the property in this report from the Council Approved Operating Budget for Facilities, Real Estate, Environment & Energy (FREEE), in the year(s) that the expenses are incurred, as necessary, and, once these expenses are known, to transfer the funding for these expenses from the Land Acquisition Reserve Fund (LARF) (XR1012), with appropriate adjustments to FREEE's Council Approved Operating Budget, as necessary, through subsequent Quarterly Variance Reports.

4. City Council approve, as the approving authority under the provisions of the Expropriations Act, the transfer to Build Toronto of the property in this report that was acquired by expropriation without giving the original owner from whom the property was expropriated the first chance to repurchase the property.

5. City Council authorize severally each of the Chief Corporate Officer and the Director of Real Estate Services to execute the transaction documents required to implement Council's decision on behalf of the City, including the execution of any required consents, approvals or permissions.

6. City Council authorize the City Solicitor to complete the transactions provided for in this report on behalf of the City, including making payment of any necessary expenses, amending the closing and other dates to such earlier or later date(s), and amending or waiving the terms and conditions, as the City Solicitor may from time to time consider reasonable.

FINANCIAL IMPACT

The transfer of the Property to Build Toronto that is the subject of the Recommendations in this report will defer the receipt of proceeds from the disposition of the Property during Build Toronto's development process. However, the transfer will optimize benefits to the City as a whole with the creation of a contiguous development parcel, and achieve potentially greater returns over time as a result of the increased value from the development.

As the property will be transferred to Build Toronto for nominal consideration, no revenue will be available to cover the expenses of affecting the transfer, such as registration charges that would normally be for the account of the vendor in a transaction of purchase and sale, survey fees, appraisal fees, etc.

As the total of the expenses related to the Property are not known at this time, and ownership of the property is currently with the City, it is agreed that FREEE will fund these costs with the understanding that the City will receive higher future dividends from Build Toronto as a result of the increased value of the property's development under Build Toronto.

It is recommended that these expenses of affecting the transfer be accommodated within FREEE's Council Approved Operating Budget, in the year(s) that the expenses are incurred, as necessary, and that, once these expenses are known, funds be provided from the LARF (XR1012). Budget transfers to adjust FREEE's Council Approved Operating Budget, as necessary, will be submitted through subsequent Quarterly Variance Reports.

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

DECISION HISTORY

In accordance with the City's Real Estate Disposal By-law, 814-2007, the Property was declared surplus on November 15, 2016 (DAF No. 2016-257), with the intended manner of disposal to be by way of a transfer to Build Toronto.

COMMENTS

The Property was acquired by the City of Scarborough for park purposes between 1974 and 1982 and form part of the former Birchcliffe Quarry lands. City Planning has undertaken planning studies and community consultation with respect to redevelopment options for this area from the early 2000's. The City conveyed the adjoining 411 Victoria Park Avenue property to Build Toronto in October 2012. The Property will be part of a development with adjoining property at 2510 Gerrard Street East and 411 Victoria Park.

The City of Toronto Official Plan prohibits the disposal of City-owned land in the Parks & Open Space Area of the Official Plan (POSA). The Property is located in POSA. Build Toronto submitted an OPA, zoning by-law amendments and draft plan of subdivision for a comprehensive redevelopment proposal encompassing the Property as well as 411 Victoria Park Avenue and 2510 Gerrard Street East including a reconfigured, similarly sized public park within the development. OPA 288, in force as of June 28, 2016, among other things, permits the disposal of the Property even though it is located in POSA.

Toronto Water has advised that there are a number of active pipes (watermains, storm sewers and combined sewers) crossing the property and easements will be reserved by the City to protect City infrastructure. The easement lands are to remain free and clear of any buildings or structures.

The City will retain a 0.4 metre piece shown as Part 9 on the Sketch for road widening to satisfy the requirement of a 27m wide right-of-way for this section of Gerrard Street East.

At its meeting on May 8 and 9, 2012, City Council by its adoption of GM13.7 directed the Director of Real Estate Services to consult with the Chief Planner and Executive Director of City Planning and the local Councillor on a property by property basis to consider if the conveyance of a stratified portion of the land is appropriate in the circumstances and consistent with the Official plan.

Planning Consultation:

City Planning has confirmed that from an Official Plan and city building perspective, a strata limit is not required on the transfer of the property.

Official Plan: Parks

Zoning: Former General Zoning By-Law 8786 (Scarborough): AG (Agriculture Holding) & P (Park)

Residential Detached (City of Toronto By-law No. 569-2013, as amended)

Local Councillor Consultation:

The Ward Councillor has confirmed that he is not seeking a strata limit on the transfer to Build Toronto.

On the basis of consultation with City Planning, the Ward Councillor and Build Toronto, there is no recommendation for a strata conveyance of the Property. Any development proposal for the Property will be subject to the City's established planning approval process.

CONCLUSION

This report recommends the terms of transfer to Build Toronto of 2530 Gerrard Street East. Implementation of the recommendations in this report will contribute to Build Toronto's portfolio of development properties and help to enhance and realize the value of the City's real estate holdings.

CONTACT

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SIGNATURE

Josie Scioli
Chief Corporate Officer

ATTACHMENTS

Appendix 1– Terms & Conditions for All Transfer Agreements
Appendix 2– Terms & Conditions of Transfer
Appendix 3 – Property Sketch PS-2016-144

Appendix 1

TERMS AND CONDITIONS FOR ALL TRANSFER AGREEMENTS

1. Closing on such date as the parties may agree.
2. Properties to be transferred “as is,” for nominal consideration, with Build Toronto to assume and be responsible for any and all liabilities arising from or connected with the state, quality, matter or condition of the properties, whether or not known, including, but not limited to, any expense or costs incurred in connection with or relating to the environmental condition of the properties.
3. Build Toronto will be responsible for all costs associated with development.
4. Build Toronto will pay any applicable Land Transfer Tax, HST, registration charges that would normally be for the account of the purchaser in a transaction of purchase and sale, and other taxes and costs.
5. Build Toronto will provide such usual closing documents as the City may require.
6. The City makes no representations about permitted use, zoning, Official Plan designation or any similar matter.
7. Build Toronto will obtain from any purchaser or tenant of the properties an agreement releasing Build Toronto and the City from liability for environmental contamination, and an indemnity in favour of Build Toronto and the City in respect of claims arising on the basis of environmental contamination.
8. Nothing in the transfer agreement will interfere with the exercise by the City of all of its rights as a municipality, or prejudice the City in carrying out its statutory rights and responsibilities, including planning rights and responsibilities.
9. No dealings between the City and Build Toronto as parties to the transfer agreement will relieve Build Toronto from the responsibility of discharging its obligations imposed by any shareholder direction, statute, regulation, by-law or in any other lawful manner.
10. Build Toronto will consult with the local councillor in planning the development of the properties.
11. Such other and amended terms and conditions as may be approved by the Chief Corporate Officer in a form satisfactory to the City Solicitor.

Appendix 2

DETAILS OF PROPERTY AND TERMS AND CONDITIONS OF TRANSFER

DETAILS OF PROPERTY

Address: 2530 Gerrard Street East, Toronto

Legal Description: Part of the Road Allowance between Lots 34 and 35, Concession A, Scarborough, closed by SC63637, and Part of Lot 34 being Part of Part 37 on Plan 64R-8550, Part of Lot 35, Concession A, described as Parts 16-22, 29, 30 and 33 on Plan 64R-3507; and Part of Lot 35, Concession A, being Part of Part 1 on Plan 66R-13283, shown as Parts 1 to 8 on Sketch No. PS-2016-144 (the "Property").

Approximate Site Area: 18,101.7 m² (4.5 acres)

TERMS AND CONDITIONS OF TRANSFER

1. Build Toronto will address the affordable housing interest in the Property subject to the terms of a Memorandum of Understanding entered into by Build Toronto and the Deputy City Manager responsible for the Affordable Housing Office dated May 20, 2010, as it may be amended from time to time.
2. The City will reserve easements for existing and future water, sewer, storm sewer, watermain and other municipal services in and on parts 1 and 6 on sketch PS-2016-144
3. Build Toronto will acknowledge that:
 - a. the Property is located in a basement flooding study area;
 - b. the Property is partially regulated and within a wetland area of interference;
 - c. any development of the Property will be subject to the City's established planning approval process.
4. Title to the Property will be taken "as is" and will be subject to existing interests and to such easements or other interests as are required for existing and future utility installations and municipal services on the Property including, but not limited to:
 - a. Instrument Number SC268220 - Easement
 - b. Instrument Number SC508730 - Easement
 - c. Instrument Number TB235403 - Encroachment agreement
 - d. Instrument Number SC252844 - Site Plan Agreement

Appendix 3

Property Sketch PS-2016-144 - 2530 Gerrard Street East

