



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### Acquisition of a Portion of 55 Lake Shore Boulevard East

**Date:** June 11, 2018

**To:** Government Management Committee

**From:** Deputy City Manager, Internal Corporate Services and General Manager, Parks, Forestry, and Recreation

**Wards:** Ward 28 - Toronto Centre-Rosedale

#### REASON FOR CONFIDENTIAL INFORMATION

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This report is about a proposed or pending land acquisition by the City of Toronto.

#### SUMMARY

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The purpose of this report is to obtain City Council's authority to acquire a portion of 55 Lake Shore Boulevard East (the "Property") from MENKES 55 LAKESHORE INC. (the "Vendor") for parkland purposes. The transaction involves the acquisition of a portion of lands to complete an approximate 1 hectare park in the Lower Yonge Precinct.

This report seeks City Council approval to proceed as outlined herein and in Attachment 1 - Confidential Information.

#### RECOMMENDATIONS

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The Deputy City Manager, Internal Corporate Services and General Manager, Parks, Forestry, and Recreation recommend that:

1. City Council authorize the Deputy City Manager, Internal Corporate Services (the "DCM, ICS") to negotiate the acquisition of 55 Lake Shore Boulevard East (the "Property") from MENKES 55 LAKESHORE INC. (the "Vendor") for the purchase price outlined in Confidential Attachment 1, and authorize the City to enter into an agreement of purchase and sale substantially on the terms outlined in Appendix "A" to this report and on such other or amended terms and conditions as may be acceptable to the DCM, ICS and in a form satisfactory to the City Solicitor.

2. City Council amend the 2018 – 2027 Council Approved Parks, Forestry and Recreation Capital Budget and Plan to include creation of a new capital sub-project called "55 Lake Shore Boulevard East - Parkland Acquisition" in the Land Acquisition project upon execution of the agreement of purchase and sale, with total project cost in 2018 and cash flow funding in year 2024 as outlined in Confidential Attachment 1, to be funded evenly from the Parkland Acquisition South District Local Parkland Reserve Fund (XR2208) and Parkland Acquisition City-Wide Land Acquisition Reserve Fund (XR2210) which are to be recovered from future Section 42 cash-in-lieu of parkland dedication(s) from future development in the Lower Yonge Precinct.

3. City Council authorizes severally each of the Deputy City Manager, Internal Corporate Services and the Director of Real Estate Services to execute the Offer to Sell agreement (the "Agreement") and any ancillary agreements and documents under the Agreement on behalf of the City.

4. City Council authorize the Deputy City Manager, Internal Corporate Services to administer and manage the transaction, including the provision of any consents, approvals, waivers and notices, provided that she may, at any time, refer consideration of any such matters (including their content) to City Council for its consideration and direction.

5. City Council authorize the City Solicitor to complete the contemplated transaction on behalf of the City, including paying any necessary expenses, amending the closing, due diligence and other dates, and amending and waiving terms and conditions, on such terms as she considers reasonable.

6. City Council authorize the public release of the confidential information in Confidential Attachment 1 once the transaction contemplated in this report has been completed, and Vendor has disposed of its interest in the Property to the City.

## **FINANCIAL IMPACT**

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This report seeks Council direction to purchase the Property as outlined in Attachment 1 – Confidential Information and to amend the 2018-2027 Council Approved Capital Budget and Plan for Parks, Forestry and Recreation (PFR) by the addition of a sub-project called "55 Lake Shore Boulevard East – Parkland Acquisition" in the Land Acquisition Project, to be funded evenly from the Parkland Acquisition South District Local Parkland Reserve Fund (XR2208) and Parkland Acquisition City-Wide Land Acquisition Reserve Fund (XR2210), and to be recovered from future Section 42 cash-in-lieu of parkland dedication from future development(s) in the Lower Yonge Precinct.

Policy 4.6.4. in the Council-adopted Lower Yonge Precinct Official Plan Amendment states that 'All landowners will contribute to the public parkland in the Precinct, to be secured through landowners agreements'. Two of the three landowners within the

Precinct have active development applications that have provided an opportunity to secure parkland through Sections 37 and 42 of the *Planning Act*. As there is currently no development application from the remaining landowner in the Precinct, located at 10 Lower Jarvis Street, and thereby the inability to enter into such an agreement, the objective of securing a large contiguous park to serve both the development and as an extension to the waterfront park system can be implemented by advancing the purchase of the site and recovering the costs through the future Section 42 cash-in-lieu funds from these lands towards this acquisition.

Additional capital funding for park development will be requested as part of future year PFR capital budget submissions.

Once the park is developed, the operating and maintenance costs are estimated to be approximately \$15,500.00 on an annual basis, commencing in 2024. This required operating funding will be included for consideration in the future year operating budget submissions for PFR.

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

## **DECISION HISTORY**

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City Council, at its meeting held on July 12, 13, 14, and 15, 2016, adopted Item TE17.21 which was further amended by City Council at its meeting of January 31, 2017 by adoption of Item CC24.3, directing the City to enter into an Agreement of Purchase and Sale with Menkes Inc. with terms satisfactory to the City Solicitor and the General Manager, Parks, Forestry and Recreation, and the Chief Planner and Executive Director, City Planning for the creation of an approximately 1 hectare centralized park within the Lower Yonge Precinct.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE17.21>  
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.CC24.3>

City Council, at its meeting held on June 7, 2016, adopted Item TE16.4, which included instructions on bringing the Lower Yonge Precinct Official Plan Amendment into effect at the OMB (now the LPAT) and endorsing the Lower Yonge Precinct Plan, which collectively provide the planning framework for development in the area, including direction for the creation of a centralized 1 hectare park.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE16.4>

## **COMMENTS**

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Public parkland and open spaces make Toronto a healthy and livable city. Investing in parkland and planning for robust open space networks are an integral part developing complete communities. The Lower Yonge Precinct has a projected future residential

population of approximately 13,000 people, who will generate demands for parkland and recreational amenities, with additional demand from the approximately 15,000 employees projected for the Precinct. In order to support the density projected for the Precinct, sufficient park space is essential. A large, contiguous, centrally-located park was endorsed by City Council as the priority solution to ensure appropriate parkland is developed within the Lower Yonge Precinct.

The parkland property (the Property) is part of the lot municipally known as 55 Lake Shore Boulevard East, located within the block bounded by Freeland Street to the west, the Harbour Street extension to the north, Queens Quay East to the south, and Cooper Street to the east, as seen in the location map in Appendix "B". The future park parcel is rectangular in shape and is approximately 1,636 m<sup>2</sup> in size, with frontage on Queens Quay East. The centralized park was identified in the June 7, 2016 Council-adopted Lower Yonge Precinct Official Plan Amendment (Map J4) with lands required for the park to be secured through both on and off-site dedications through development approvals in the Precinct, under Sections 37 and 42 of the Planning Act. It was anticipated however, that the total size of the park may be larger than the total amount of parkland dedicated through development, in which case the City would be required to contribute to achieve the 1 hectare park. A policy framework was adopted by Council within the Lower Yonge Precinct Official Plan Amendment (policies 4.6 – Parks and Open Space and 6.1 – Land Use) that established clear direction to prioritize and secure the establishment of the park, as part of the appropriate infrastructure required to introduce the residential land uses and increased densities contemplated by the Lower Yonge Precinct Plan. Parks, Forestry & Recreation supports the purchase of approximately 1,636m<sup>2</sup> of remaining parkland required to implement the policies adopted by Council and achieve the central park.

On July 12, 13, 14 and 15, 2016 City Council required the applicant at 1-7 Yonge Street (Pinnacle Inc.) to enter into a Three Party Agreement with the City of Toronto and the owner of the future park block at 55 Lake Shore Boulevard East (Menkes Inc.) prior to the OMB issuing its orders for the development in order to satisfactorily secure the conveyance of the full approximate 1 hectare centralized park.

At its meeting of January 31, 2017 City Council adopted item CC24.3 directing the City to enter into an Agreement of Purchase and Sale with terms satisfactory to the City Solicitor and the General Manager, Parks, Forestry and Recreation, and the Chief Planner and Executive Director, City Planning for the creation of an approximately 1 hectare centralized park within the Lower Yonge Precinct, including authorizing the entering into of an agreement of purchase and sale between Menkes Inc. and the City for the portion of the central park representing Menkes' over-dedication of public parkland in connection with the approval of the Menkes Application at 55 Lake Shore Boulevard East.

#### **A. Desirability of the use of the Property as a park.**

The vision for the Lower Yonge Precinct, endorsed by Council, includes establishing a vibrant, mixed-use, complete community that derives its character from its waterfront context and the large central park at its heart. The park is intended to be the place-

making heart of the community, serving its anticipated 28,000 new residents and employees, while also adding to the range of recreational experiences and broader system of parks along Toronto's waterfront. The park will also support outdoor programming for the future community centre, to be located adjacent to the park and integrated into the base of the 1-7 Yonge Street development (Pinnacle Inc.).

The proposed central park supports the achievement of a large contiguous central park in accordance with the goals and vision of the Council-endorsed Lower Yonge Precinct Plan and is also in accordance with the City of Toronto's Official Plan policies in Section 3.2.3, recognizing the importance of parks and open spaces as a necessary element of complete community and city-building, particularly in growth areas.

## **B. Funding**

The acquisition of a portion of the land at 55 Lake Shore Boulevard East for the creation of the future Lower Yonge central park will be funded evenly from the Parkland Acquisition South District Local Parkland Reserve Fund (XR2208) and Parkland Acquisition City-Wide Land Acquisition Reserve Fund (XR2210) which are to be recovered from future Section 42 cash-in-lieu of parkland dedication(s) from future development in the Lower Yonge Precinct.

## **C. Environmental Due Diligence**

Parcels of land in this precinct have documented soil contamination issues which are also anticipated in the future park block. Any existing contamination will need to be addressed through the Record of Site Condition regulation under the Environmental Protection Act prior to parkland conveyance. This will likely be done through a risk assessment process, and risk management measures (such as cap inspection, limits on excavation, etc). These measures have become more common in dealing with re-purposed brownfields, especially in the Waterfront area. The City of Toronto Policy for Accepting Potentially contaminated Lands to be Conveyed to the City under the Planning Act (adopted February 11, 2015) recognizes and accepts certain "routine" risk management measures. Pursuant to a parkland agreement, with the Vendor, Pinnacle International (One Yonge) Ltd., Pinnacle International (Seven Yonge) Ltd., Davies Howe Partners LLP and R.V. Anderson Associates Limited to be entered into between the parties (the "Parkland Agreement"), the parties have to come an agreement with respect to parkland dedications, work and conveyances for the Property. Pursuant to the Parkland Agreement, City Staff will take measures to ensure that the Property meets applicable MOE and other requirements for the intended municipal use of the Property.

## **D. Agreement**

Terms of the Agreement are provided in Appendix "A" and Attachment 1 – Confidential Information attached hereto. City Staff considers an Agreement based on terms and

conditions set out in the foregoing to be fair market value and reasonable, and therefore recommends the approval of this transaction.

## **CONTACT**

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David Jollimore, Director of Real Estate Services;  
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## **SIGNATURE**

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Josie Scioli  
Deputy City Manager,  
Internal Corporate Services

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Janie Romoff  
General Manager, Parks, Forestry,  
and Recreation

## **ATTACHMENTS**

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Appendix "A" - Terms and Conditions of the Agreement  
Appendix "B" - Location Map  
Appendix "C" - Site Plan  
Confidential Attachment 1 - Confidential Information

## Appendix "A" – Terms and Conditions

<b>Address (Location)</b>	Part of 55 Lake Shore Boulevard East. See Appendix "C" attached hereto.
<b>Owner/Vendor</b>	MENKES 55 LAKESHORE INC.
<b>Proposed Purchase Price</b>	Contained within the Confidential Attachment
<b>Additional Costs</b>	Contained within the Confidential Attachment
<b>Irrevocable Period</b>	The irrevocable period expires on August 3, 2018 at 11:59 p.m.

### Closing Date

The Closing Date shall be the earlier of:

- a) Six (6) years from the issuance of the first above-grade Building Permit for any portion of the Vendor's lands;
- b) Three (3) years from first occupancy or use for retail or office purposes of any portion of Block 1 as shown on the Draft Plan of Subdivision submitted by the Vendor to the City in support of City of Toronto Application No. 16 152754 STE SB, as may be revised from time to time, before registration of said plan against title to the Menkes Lands; or
- c) December 31, 2028.

### City's Condition

The City's obligation to complete the transaction of purchase and sale contemplated by this Agreement shall be conditional until Closing upon the City confirming, to the City's satisfaction, as determined in the City's sole and absolute discretion, the Vendor's obligations under the Parkland Agreement are satisfied, which includes being satisfied with the remediation plan for the Property and bringing the Property to base park condition.

### Environment Matters

As a result of agreements between the Liquor Control Board of Ontario (LCBO), Toronto Port Lands Company (TPLC) and the Vendor, the City is required to deliver to the Vendor on closing a confirmation and release, in form and content satisfactory to the

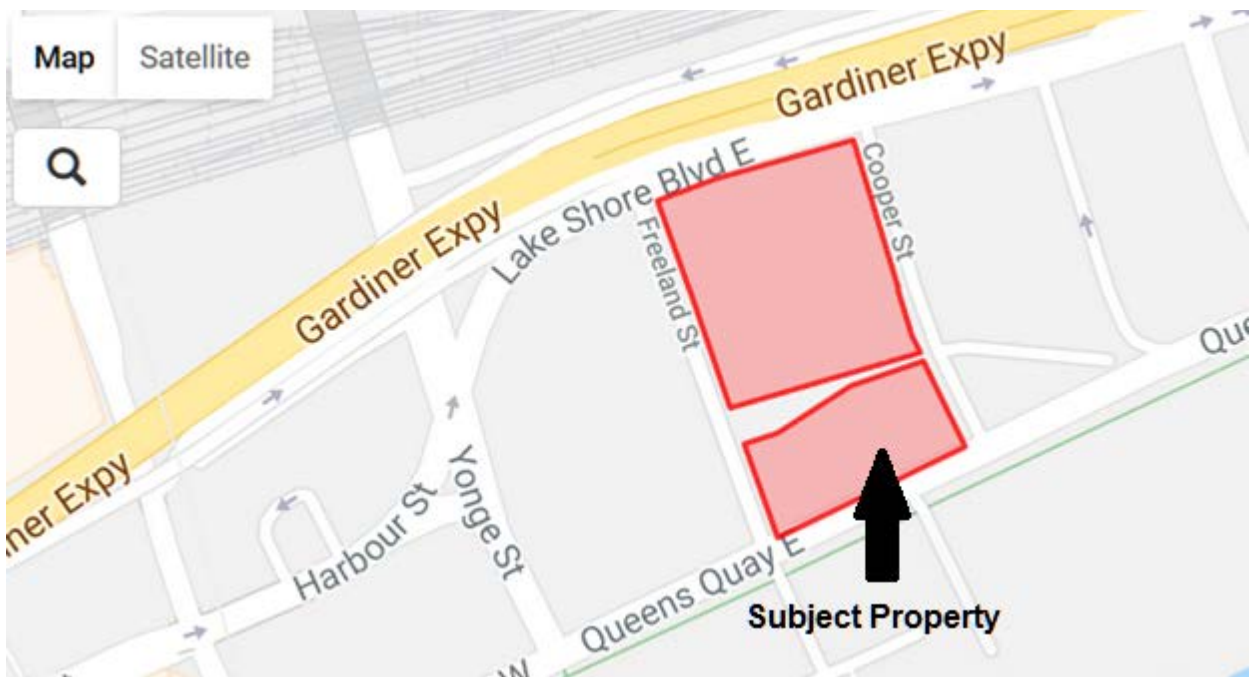
City Solicitor, confirming and releasing TPLC and LCBO and their respective directors, officials, officers, employees, consultants, contractors, representatives, agents, successors, and assigns, or any of them from and in respect of any and all claims and losses for the presence or effect of any hazardous substances relating to the Property. The City will also be required to obtain such confirmation and release from future transferees of the Property. The City is also required to deliver an indemnity in favour of LCBO with respect to such matters. The City will be obtaining an indemnity from the Vendor for any and all claims as a result of the City providing the confirmation, releases and indemnities described in this paragraph

Pursuant to the Parkland Agreement, City Staff will take measures to ensure that the Property meets applicable MOE and other requirements for the intended municipal use of the Property.

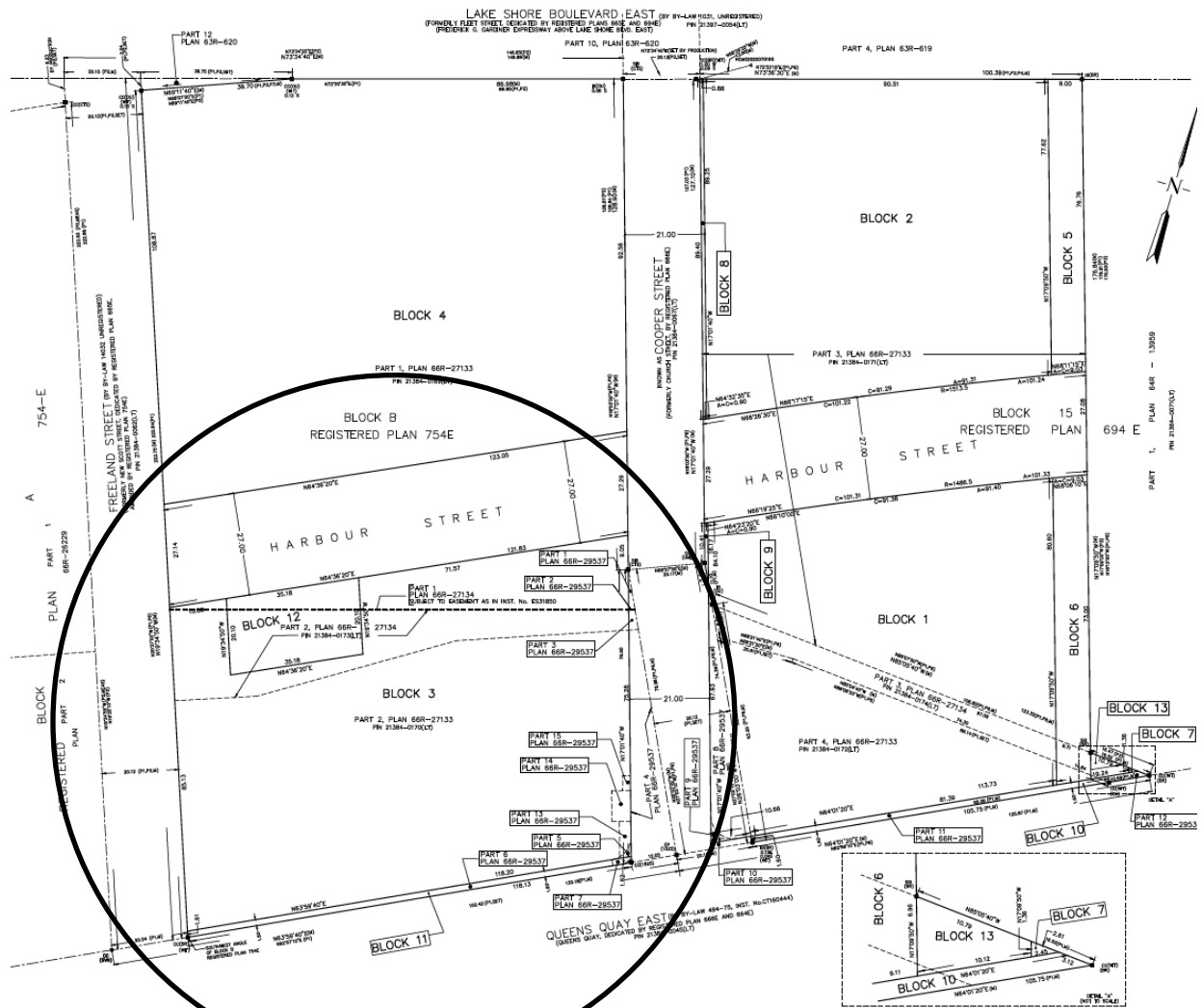


**Appendix "B" – Location Map**





# Appendix "C" – Survey



See Following Page

