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<th>TO: Chair and Members Economic Development and Planning Committee</th>
<th>WARD AFFECTED: Ward 11</th>
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<td>COMMITTEE DATE: August 9, 2010</td>
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<td>SUBJECT/REPORT NO: Proposed Land Exchange on Upper James Street Between City of Hamilton and Orlick Industries Inc. / 1436851 Ontario Inc. (David Braley) - Airport Industrial Business Park, City of Hamilton (PED10162) (Ward 11)</td>
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<td>SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department</td>
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<td>PREPARED BY: Vince DiPietro (905) 546-2424, Ext. 7044</td>
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**RECOMMENDATION:**

(a) That an Option to Purchase agreement for the acquisition of land required for a stormwater pond, executed by 1436851 Ontario Inc. (David Braley) and scheduled to close on or before September 29, 2010, described as Part 10 on Drawing RO710197, prepared by Speight, Van Nostrand & Gibson Limited, as shown on attached Schedule “A” to Report PED10162, being part of PIN 17399-0131 and comprising an area of 1.23 hectares (3.04 acres) more or less, for a purchase price of $395,000 be approved and completed;

(b) That the purchase price of $395,000 be funded from 2008 Capital Account No. 59259-5181080097 (Orlick Aeropark);

(c) That a landlocked City parcel described as Parts 3, 4 and 5 on Drawing RO710197, prepared by Speight, Van Nostrand & Gibson Limited, as shown on attached Schedule “B” to Report PED10162, being all of PIN 17399-0278,
comprising an area of 2.46 hectares (6.08 acres) more or less be declared surplus to the requirements of the City of Hamilton;

(d) That an Offer to Purchase agreement, executed by the purchaser 1436851 Ontario Inc. and scheduled to close on or before September 29, 2010 for the lands described in Recommendation (c) at the sale price of $395,000 be approved and completed, and that the sale price be credited to Capital Account No. 47702-3620504502 (Airport Lands Expansion);

(e) That the Option to Purchase described in Recommendation (a) and the Offer to Purchase described in Recommendation (d) shall close contemporaneously with each other, failing which the transfers will become null and void;

(f) That the sale price does not include the Goods and Services Tax (GST) or Harmonized Sales Tax (HST); and should the GST or HST be applicable and collected by the City, that the GST or HST amount be credited to Account No. 22835 009000 (GST) or Account No. 22828 009000 (HST);

(g) That Account No. 45408-3560150200 (Property Purchases & Sales) be credited in the amount of $6,000.00 for Real Estate's administrative and appraisal costs and be funded from the proceeds of the sale and that any further disbursements (legal costs and expenditure of the Legal Section) also be funded from Capital Account No. 3620504502 (Airport Lands Expansion);

(h) That the City Clerk be authorized and directed to execute and issue a Certificate of Compliance for this transaction in the form prescribed pursuant to Section 268 of the Municipal Act, incorporating the following, if required, before selling any lands:

That Section 8 (b) – Exclusion from Section 3 conditions of By-Law 04-299 being: “Land to be used for the establishment and carrying on of industries and industrial operations and incidental uses” exempts the requirement to declare the subject lands surplus to municipal requirement under Section 3.(a) of City of Hamilton By-Law 04-299; exempts the requirement for an appraisal of the fair market value of the lands as required under Section 3.(b) of City of Hamilton By-Law 04-299; and exempts the requirement for public notice of the intended sale under Section 3.(c) of City of Hamilton By-Law 04-299.

That notwithstanding the exclusions under Section 3, City Council has declared the subject lands surplus to municipal needs, an appraisal of the fair market value of the subject lands has been completed with the sale price being in the range of market value and, public notice was given by the inclusion of the subject
land sale in the agenda of the Council meeting at which the intended sale is to be considered by Council;

(i) That the Mayor and Clerk be authorized and directed to execute all necessary documents in a form satisfactory to the City Solicitor.

EXECUTIVE SUMMARY

This report seeks Council approval to acquire vacant industrial land required for a stormwater detention pond to service the Orlick Aeropark industrial subdivision located at the southwest corner of Upper James Street and Dickenson Road.

In exchange for this parcel, staff is seeking approval to sell a landlocked, vacant, industrial parcel situated south of and adjacent to the Orlick Aeropark to the developer; this will enable enhancement to the lotting configuration in the proposed Orlick Aeropark subdivision.

Alternatives for Consideration – Page 5

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: This acquisition and sale are being made at fair market value. The stormwater detention pond is a growth infrastructure project listed in the 2009 City Development Charges (DC) background study approved by City Council in its 2008 Capital Budget. Funding for the land acquisition and construction of the pond is 100% DC funded. The net proceeds of the surplus City land sale will be deposited in the City’s Capital Project for Airport Land Expansion No. 3620504502 to deal with any future funding shortfalls and/or Airport Industrial servicing requirements.

Staffing: There are no identified staffing implications arising out of the recommendation.

Legal: Legal Services has been involved in the review and approval of the necessary documents, as to form. Staff in Legal Services will prepare the necessary documents required for the purchase, sale and transfer of title to the subject lands.

HISTORICAL BACKGROUND (Chronology of events)

The information and recommendations contained in this report primarily affect Ward 11.
In April 2004 City Council was prepared to consider the sale of landlocked City lands situated adjacent to the proposed Orlick Aeropark project on Upper James Street. At that time, the parcel was surplus to municipal requirements and its sale to Orlick Industries Inc. was negotiated at the price of $206,000. Prior to Council approval of this transaction, Orlick Industries Inc. gave notice of wanting to cancel the purchase. The parcel has remained available over the intervening years but being landlocked with no access to Upper James Street, the logical purchaser is still the owner of Orlick Aeropark. Further, the zoning of the landlocked parcel is “M4”, consistent with zoning on the adjoining lands held by Orlick Industries Inc.

Plans for the Orlick Aeropark project consisting of 38 hectares (94 acres) of industrial land is moving forward via subdivision application 25T-200525. As a condition of approval, the City is requesting that a block of land be reserved for stormwater management. As negotiations for this requirement proceeded, the owners of Orlick Aeropark expressed an interest in acquiring the City’s adjoining landlocked parcel, therein providing an opportunity for this land exchange.

An external appraisal completed on the landlocked City lands determined the market value at $395,000 for the 2.46 hectares (6.08 acres). An internal appraisal review of the value of the lands at the corner of Dickenson Road and Upper James suggested a similar market value. Negotiations between the City and Orlick resulted in a relative monetary value being placed on the two parcels.

As a condition of these transactions, prior to closing, Orlick Industries Inc. is to provide a survey of the subject parcels.

**POLICY IMPLICATIONS**

- Real Estate Portfolio Strategy Plan
- Growth Related Integrated Development Strategy
- Building a Strong Foundation
- Provincial Policy Statement
- Places to Grow

**RELEVANT CONSULTATION**

- Development Engineering, Planning & Economic Development Department
- Development Planning, Planning & Economic Development Department
- Real Estate, Planning & Economic Development Department
- Industrial Parks and Airport Development, Planning & Economic Development Department
- Legal Services, City Managers Office
ANALYSIS / RATIONALE FOR RECOMMENDATION

Development of the stormwater detention pond is a condition of approval of the Orlick Aeropark industrial subdivision. This infrastructure will allow the developer to move forward with the proposed 38 hectare (94 acre) project.

Transfer of the surplus City land will allow for its incorporation into the Orlick Aeropark and facilitate the enlargement of the project by 2.46 hectares (6.08 acres), allowing for deeper and more marketable industrial lots off Aeropark Boulevard.

ALTERNATIVES FOR CONSIDERATION:

The City’s requirement of land for a stormwater detention pond at the Orlick Aeropark is a condition of draft plan approval imposed by the City. Accordingly, the alternative to not purchase would be irrelevant since the land being acquired from 1436851 Ontario Inc. (David Braley) will fulfil the City’s need for this infrastructure.

The landlocked parcel being conveyed by the City to Orlick Industries Inc. (David Braley) has no road access and is encumbered by an easement in favour of Union Gas. This parcel will square off the Orlick Aeropark development plan allowing for improved utility, greater building coverage, and more marketable lots which will result in productive assessment to the City. Staff is of the opinion that the logical purchaser is Orlick Industries Inc. and that the alternative to not sell the lands to Orlick Industries Inc. is not recommended.

The market value of the lands being exchanged, while not similar in size, is determined to be comparable at about $350,000 based on the external and internal valuations.

Approval of the recommendations by Committee and Council will authorize Real Estate staff to proceed with acquisition of the lands required for the stormwater infrastructure and for the sale of City lands to expand the adjacent industrial development.
CORPORATE STRATEGIC PLAN  (Linkage to Desired End Results)


Skilled, Innovative & Respectful Organization
• n/a

Financial Sustainability
• Increase the availability of industrial land options to meet the needs of new, relocating or expanding businesses. Increase the municipal property assessment and the industrial property tax base.

Intergovernmental Relationships
• n/a

Growing Our Economy
• Opportunity to support industrial development with additional infrastructure and job growth and industrial

Social Development
• n/a

Environmental Stewardship
• Stormwater Management Facilities to moderate potential flooding problems from industrial expansion.

Healthy Community
• n/a

APPENDICES / SCHEDULES

Appendix “A” – Location Plan – Dickenson Road at Upper James
Appendix “B” – Location Plan – City Rear Lands at Upper James
Orlick Aeropark

Appendix “A” to PED10162

LOCATION PLAN

Dickenson Road at Upper James Street
City purchase from 1436851 Ontario Inc.

CITY OF HAMILTON

LEGEND

SUBJECT LAND

SCALE
NOT TO SCALE
DATE
2010-07-29
REFERENCE FILE NO: 2001-158
Orlick Aeropark

Appendix “B” to PED10162

LOCATION PLAN

City rear lands at Upper James Street
City sale to Orlick Industries Inc.

CITY OF HAMILTON

LEGEND

SUBJECT LAND

SCALE

NOT TO SCALE

DATE

2010-07-29

REFERENCE FILE NO.: 2001-158