TO: Chair and Members  
Economic Development and Planning Committee  
WARD(S) AFFECTED: Ward 12

COMMITTEE DATE: September 21, 2010

SUBJECT/REPORT NO:  
Ontario Realty Corporation (ORC) Surplus Land - Project 8118 - Located at 435 Garner Road, Described as Parts 1, 2, 3, 4 & 5, Plan 62R-16032, in Former Township of Saltfleet, now City of Hamilton (PED10213) (Ward 12)

SUBMITTED BY:  
Tim McCabe  
General Manager  
Planning and Economic Development Department  
PREPARED BY:  
Darlene Cole  
(905) 546-2424, Ext. 7910

SIGNATURE:  

RECOMMENDATION

(a) That the Real Estate Section of the Economic Development and Real Estate Division of the Planning and Economic Development Department be authorized and directed to advise the Ontario Realty Corporation (ORC) that the City of Hamilton has no interest in acquiring their land located at 435 Garner Road, legally described as Parts 1, 2, 3, 4 and 5, Plan 62R-16032, in the former Township of Saltfleet, now City of Hamilton, as shown on Appendix “A” attached to Report PED10213; and

(b) That the Real Estate Section of the Economic Development and Real Estate Division of the Planning and Economic Development Department be authorized and directed to advise ORC of the City of Hamilton’s requirements to the development of the site as contained in the “Relevant Consultation” Section of Report PED10213.
EXECUTIVE SUMMARY

For the purpose of meeting its protocol requirements, ORC has circulated this parcel to the City for comments or to declare an interest in the property.

Given that ORC initiated development planning for this property in 2008 which has progressed to a recommendation for draft plan approval (Report PED10186), the City will decline the opportunity to acquire the property at fair market value.

The Real Estate Section of the Economic Development and Real Estate Division of the Planning and Economic Development Department is seeking Council’s direction to advise ORC that the City of Hamilton has no interest in acquiring the surplus lands located at 435 Garner Road, as shown on Appendix “A” to Report PED10213.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (For Recommendation(s) Only)

Financial: n/a
Staffing: n/a
Legal: n/a

HISTORICAL BACKGROUND (Chronology of Events)

The information and recommendation contained in this Report primarily affect Ward 12.

The subject property consists of 22.046 ha (54.47 acres) of vacant land situated on the east limit of the ramp connecting Highway 6 northbound to Highway 403 eastbound in Ancaster. Since January 2008, ORC has been planning to secure draft approval on this parcel via Application 25T-200725, proposing a mix of residential units. Following draft approval, ORC will dispose of the property at fair market value.

ORC has invested significant amounts of time and money in developing this plan. The original concept proposed 653 residential units which included a mix of apartments, single detached and street townhouse units. In November 2009 the draft plan submission was revised to 568 units, responding to technical and planning concerns that arose during the review process. In 2010 the plan was revised twice, reducing the total yield from the original 2008 submission. The current draft plan proposes 361 units in addition to blocks for an elementary school, open space, stormwater management facilities, and a neighbourhood park.
During the City’s internal circulation to the various departments, interest in the property was confirmed by staff in Environment and Sustainable Infrastructure. Recreation staff indicated an interest in securing the land for future parkland to meet its parkland deficiencies while staff in Strategic Planning/Rapid Transit were interested in the property to support a possible rapid transit link or a future location for a Carpool / Park and Ride Lot, as prescribed by the Transportation Master Plan.

**POLICY IMPLICATIONS**

Although the City’s internal circulation confirmed interest from staff in Environment and Sustainable Infrastructure, the cost of acquiring the lands at the draft approved stage is cost prohibitive. Accordingly, Council’s direction is being sought to allow staff to advise ORC that the City of Hamilton has no interest in acquiring the lands. Dedication of parkland in the ORC subdivision is a condition recommended as part of draft plan approval.

**RELEVANT CONSULTATION**

Pursuant to the City of Hamilton Real Property Sale Procedural By-law 04-299, the Real Estate Section circulated the request to all City Departments. The following comments were received:

**Legislative Approvals Section:**

“The Provincial Policy Statement (PPS) provides policy direction of provincial interest related to land use planning and development. The Planning Act requires that, in exercising any authority that affects planning matters, planning authorities shall be consistent with policy statements issued under the Act. Staff notes the following PPS policy:

Policy 1.7.1(e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities) and sensitive land uses are appropriately designed, buffered and separated from each other to prevent adverse effects from odour noise and other contaminants, and minimize risk to public health and safety. Staff note that the subject lands are located adjacent to Highway 403, Highway 6 and Garner Road East and are intended to be developed for residential purposes. Staff advise that as part of our comments pertaining to OPA-07-031, ZAC-07-105 and 25T-200725 for the subject lands, satisfaction of the following condition was required:
That the owner/applicant shall investigate the noise levels on the site and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of Environment’s recommended sound level limits. An acoustical report prepared by a qualified Professional Engineer containing the recommended control measures shall be submitted to the satisfaction of the City of Hamilton, Director of Planning. Should a peer review of the acoustical report be warranted, all associated costs shall be borne by the owner/applicant and shall be submitted to the satisfaction of the City of Hamilton, Director of Planning.

The subject property is designated as “Urban Area” within the Hamilton-Wentworth Regional Official Plan. Policy 3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. Urban Areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

The subject lands are designated as Residential, Commercial and Open Space within the Town of Ancaster Official Plan. The subject lands are also located in the Garner Neighbourhood, and have multiple designations in accordance with the approved Secondary Plan.

The subject lands are currently zoned Agriculture “A-216” modified, which prohibits the use of the subject lands for Piggeries, Poultry Operations, Feed Lot Operations, Mushroom Farms, and Mink Farms.”

Finally, staff note that the above noted lands are subject to an Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision applications (OPA-07-031, ZAC-07-105 and 25T-200725) which will be presented to the September 21, 2010, Economic Development and Planning Committee Meeting.

**Development Engineering Section:**

“Prospective purchasers should be advised that there are no municipal sewers on this section of Garner Road. In addition, a condition of development approval will include a road allowance widening dedication to establish the property line 18.29 metres from the centreline of construction of the former Highway No. 53.”

**Community Planning:**

The following planning framework also applies to the subject property:

“Urban Hamilton Official Plan Designation (Council adopted):
Schedule “E-1” – Urban Land Use – Neighbourhoods, Open Space
Map “B.2.3-1” – Garner Neighbourhood Secondary Plan Land Use Plan – Low Density Residential 1, Low Density Residential 1A, Medium Density Residential 2B, Utility (SWM), Natural Open Space, Institutional, Local Commercial, Neighbourhood Park.

Secondary Plan Designation:

The property is located within the Garner Neighbourhood Secondary Plan and has a number of different land use designations. Of interest to the City is the area designated as Neighbourhood Park. Staff is aware that as this area develops in accordance with the Secondary Plan’s designations, the City will acquire these lands through parkland dedication. However, the Recreation Division of the Community Services Department should be consulted to confirm the timing of the acquisition of the neighbourhood park.

Community Planning – Archaeology:

“The subject property meets 6 of the 10 criteria used by the City of Hamilton and Ontario Ministry of Culture (MCL) for determining archaeological potential:

1) Within 250 metres of known archaeological sites;
2) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;
3) In an area of sandy soil in areas in clay or stone;
4) In the vicinity of distinctive or unusual landforms;
5) In areas of pioneer EuroCanadian settlement; and,
6) Along historic transportation routes.

These criteria define the property as having archaeological potential and future owner(s) of the property should be advised of the following:

The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances, and an archaeological assessment should be conducted prior to such impacts in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Testing and Stage 4 Mitigation may be
required as determined by the MCL. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the MCL.

Should deeply buried archaeological materials be found on the property during any of the above development activities the MCL should be notified immediately (416-314-7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MCL and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416-326-8392)."

**Community Planning – Natural Heritage:**

“The subject property is located adjacent to the Hamilton Golf and Country Club Environmentally Sensitive Area (ESA #40) in the Regional Official Plan. The woodland which abuts the ORC property to the east has been identified as a Core Area (Significant Woodland) in the Urban Hamilton Official Plan. No new development or site alteration is permitted within or adjacent to these features unless it can be shown, through an Environmental Impact Statement (EIS), that there will be no negative impacts on the natural features and functions. Policy 2.5.10(f) in the Urban Hamilton Official Plan requires a minimum 15 metre buffer adjacent to the significant woodland. It should also be noted that two endangered species have been found within and adjacent to the significant woodland. An EIS is required as part of a complete development applications.

There are also streams on the property which are regulated by the Hamilton Conservation Authority and a permit may be required. There are trees and hedgerows on the site which are regulated by the Ancaster tree cutting by-law. A Tree Protection Plan is required as part of a complete development application to ensure that as many trees as possible are retained on the site.”

**Environment and Sustainable Infrastructure Division:**

“Garner Road is in the City of Hamilton’s new Urban Hamilton Official Plan listed in Schedule C-2 – Future Road Widenings (to be widened); the City may require a portion of this land for the widening. In the City of Hamilton Transportation Master Plan, Garner Road is listed as a future Rapid Transit link, and in this area there may be a future need for a Carpool/Park and Ride lot."
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ANALYSIS / RATIONALE FOR RECOMMENDATION
(Include Performance Measurement/Benchmarking Data, if Applicable)

Approval of the recommendation by Committee and Council will authorize Real Estate staff to advise the ORC that the City of Hamilton has no interest in the surplus land.

ALTERNATIVES FOR CONSIDERATION
(Include Financial, Staffing, Legal and Policy Implications and Pros and Cons for Each Alternative)

If staff does not respond to ORC within the allotted time period, it will be treated as a negative response.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)


Skilled, Innovative & Respectful Organization
- n/a

Financial Sustainability
- n/a

Intergovernmental Relationships
- Maintain effective relationships with other public agencies

Growing Our Economy
- n/a

Social Development
- n/a

Environmental Stewardship
- n/a

Healthy Community
- n/a

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
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