

REPORT / RAPPORT



Mary
Broughton

File/N° de fichier: L04-01-09-09 750 HUNT
Date: 29 March 2010
To / Destinataire: Gordon MacNair
Director, Real Estate Partnerships and Development Office
From / Expéditeur: Robin Souchen
Manager, Realty Services Branch
Subject / Objet: DEL2010-RES-0042 PROPERTY ACQUISITION, TERRY FOX DRIVE
(NORTH) EXTENSION: [REDACTED]

REPORT RECOMMENDATION

That the Director, Real Estate Partnerships and Development Office, approve the agreement by which the City will temporarily enter land to construct a floodplain compensation area required as part of the Terry Fox Drive (North) extension project, upon a parcel of vacant land consisting of approximately 5.78 hectares (14.28 acres) owned by [REDACTED], being part of PIN 04510-0079 and described as Part of Lot 5, Concession 1, Geographic Township of March, now City of Ottawa, shown as Parcels "A" and "B" on the attached Document 1, as well as a Temporary Working Easement on 4.03 hectares (9.95 acres) shown as Parcel "C" and Parcel "D" on attached Document 1, for the total consideration of \$256,318 plus GST, subject to final adjustments on closing.

BACKGROUND

The Terry Fox Drive Environmental Study Report (ESR), Eagleson Road to March Road was completed by the former Region and filed in October 2000. Regional Council, on 27 September 2000 approved a report to advance several key infrastructure projects, in response to rapid growth that included the preliminary design of Terry Fox Drive between Richardson Side Road and March Road. The preliminary design recommended a number of modifications to the 2000 ESR to resolve conflicts, improve road design, improve safety, address the anticipated increased transportation demand, and reduce the impact on geographic features (rocky hill tops). The proposed modifications were deemed to be significant enough to require the completion of an Environmental Assessment (EA) Addendum to the 2000 EA. The 2000 ESR alignment of Terry Fox Drive, which generally follows the floodplain of the Carp River (west of the urban boundary), was adopted into the City's new Official Plan (OP) in May 2003. An Addendum to the Terry Fox Drive Environmental Assessment was conducted in 2004. This was posted for public review and approved following the end of review in February 2005.

The City of Ottawa also completed an environmental assessment study, which examined future intersection needs at Terry Fox Drive / Innovation Drive / Flamborough Way / Goulbourn Forced Road. The extension of Terry Fox Drive west of Flamborough Way / Innovation Drive would create a fifth leg to the existing Terry Fox Drive / Goulbourn Forced Road / Flamborough Way / Innovation Drive intersection. This is an undesirable condition for traffic safety and traffic operation reasons. The study has recommended the construction of a 150-metre road connecting Goulbourn Forced Road with

FEDERAL INFRASTRUCTURE STIMULUS PROJECT

In 2009, City Council identified and approved this project as an Infrastructure Stimulus Funded Project. Under this program new roadways are subject to the federal screening process under the Canadian Environmental Assessment Act (CEAA). The CEAA Screening Approval was granted for the Phase 1 (March Road to Second Line Road) portion of the project on 11 Feb 2010. The CEAA Screening Approval for the Phase 2 (Second Line Road to Kanata Avenue) portion of the project is anticipated by 1 April 2010.

Phase 2 of the Project, which includes the land requirement that is subject of this report, was tendered 16 March 2010 and is to close 1 April 2010.

DISCUSSION

The design for Terry Fox Drive extension (north) sets a section of the road corridor (roughly 350 metres south and 1,200 metres north of Richardson Side Road) within the floodplain of the Carp River. In accordance with government regulations, delegated to the Mississippi Valley Conservation Authority ("MVCA"), consideration must be given to the amount of fill being placed within the floodplain in conjunction with the road project and identifying an acceptable engineering solution to offset this impact. This is accomplished through a "Cut and Fill" approach wherein any loss of flood storage must be compensated for by the reduction in level of nearby ground, such that the same volume is available at every flood level before and after the works and it can freely fill and drain.

In the present case land to offset and compensate for the floodplain land to be "filled" and constructed on within the limits of the Terry Fox Drive corridor (aka. floodplain compensation lands) has been identified along the west side of the Carp River, north and south of Richardson Side Road. This includes a section of property owned by [REDACTED] located south of Richardson Side Road and east of Huntmar Road, shown as Parcels A and B on attached Document 1. Parcel A encompasses 2.73 hectares (6.74 acres) of land within the floodplain of the Carp River; Parcel B encompasses 3.05 hectares (7.53 acres) of table land outside of the floodplain. Note: the 1 in 100 year limit of the Carp River floodplain is currently delineated by the 93.4 metre contour line that also represents the division line between the Parcel A and Parcel B land shown in Document 1.

In accordance with construction design drawings and Permit Application for *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses* submitted by City of Ottawa and approved by the MVCA on 17 March 2010, the Parcel A and B lands encompass the footprint of the "cut" area to be re-engineered in order to off-set impacts of the "filled" areas on Terry Fox Drive. In effect some of the grade elevations and wetland features contained within the limits of Parcel A will be modified, but the land will remain part of the Carp River floodplain. Conversely, land within Parcel B, which is presently situated outside of the floodplain, will be re-graded throughout and result in an elevation of 93.4 metres at the south-westerly limit. This will be commensurate with elevations established within the 1 in 100 year floodplain of the Carp River. Therefore, on completion of construction, Parcel B will be changed in both the physical and regulatory context from being table land situated outside the floodplain, to being part of the Carp River floodplain and now subject to the governing regulations, guidelines and policies of the MVCA. Note: on completion of the construction, the contour of the 1 in 100 year limit of the Carp River floodplain will be delineated by the south-westerly limit of Parcel B which will be graded at an elevation of 93.4 metres above sea level.

The Parcel A and B lands have a combined land area of 5.78 hectares (14.28 acres) situated within a larger parcel of vacant land containing approximately 42.45 hectares (104.89 acres) bounded by Richardson Side Road, Huntmar Road and the west shoreline of the Carp River. An additional 4.03 hectares (9.95 acres) shown as Parcel C and D on Document 1, is required for temporary work (construction) easements. The larger parcel is designated Agricultural Resource in the City of Ottawa Official Plan (Rural Policy Area), and zoned Agriculture - AG1 under the City of Ottawa Zoning By-Law 2008-250. The property is presently used for agricultural purposes, wherein approximately 65 per cent of the land area is planted for corn production.

That portion of the larger parcel identified as Parcels A and D is located within the limits of 1 in 100 year floodplain of the Carp River and subject to the *Floodplain Hazard Overlay* designation. As such land use permitted in these areas is subject to minimum setbacks from the Carp River in order to provide a margin of safety from hazards associated with flooding and unstable slopes, and to help protect the environmental quality of the watercourses. Any development permitted is also subject to regulations, guidelines and policies of the Mississippi Valley Conservation Authority (MVCA). On completion of the approved construction of the floodplain compensation area, the Conservation Authority floodplain mapping will be amended to include the land within Parcel B, to be followed by an update to the City's zoning by-law mapping to include the Parcel B lands in the *Floodplain Hazard Overlay* designation.

At the request of the Infrastructure Services Branch negotiations with the property owner were undertaken to acquire land required for floodplain compensation and temporary construction easements. In this case the property owner exerted a preference to retain ownership of the Parcel A and D land identified for floodplain compensation, but allow the city to make the required grade modifications and redefine the 1 in 100 year limit of the floodplain contour in accordance with the design for *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses* approved by the MVCA, in exchange for financial compensation representing the devaluation of market value of the Parcel A and B lands stemming from the City works. This was preferred by the owner in order to avoid the irregular boundaries that would result on the remaining [REDACTED] lands if the Parcel A and B lands were transferred in fee simple, the increased potential for public trespass on adjacent [REDACTED] lands if the Parcel A and B lands were in City ownership, and to avoid potential fencing disputes and other land management issues.

By this approach, although the City would not take a legal interest in title of the Parcel A and B land, the design requirement of the Terry Fox Drive extension (north) is achieved in accordance with floodplain compensation plan approved by the MVCA. In the long term the restrictive use as floodplain will run with the Parcels A and B. In matters of the owner's entitlement to compensation, the approach applied is consistent with the provisions for injurious affection allowed under the Expropriations Act. If a statutory authority does not acquire part of the land of an owner, and a reduction to the market value of the owner's land results from the construction related to the project and not the use of the works by the statutory authority, compensation is based on such reduction in the market value of the land of the owner.

Negotiations relating to compensation were supported by an independent appraisal completed on behalf of the City and shared with the property owner, to provide an estimate of market value for the subject land in its highest and best use. The appraisal concluded in consideration of the property's location at the edge of the urban boundary, the highest and best use of the property was continued use as agricultural land while recognizing the speculative potential for urban designation and deployment in the near to medium term. The appraiser relied on the Direct Comparison Approach wherein the subject property was compared with similar type properties that had recently sold, or had been offered for sale

at the time of appraisal. Upon analyzing market data, the appraiser applied a split-rate approach in order to establish a market value estimate wherein the value assigned the floodplain land was \$16,000 per acre and that assigned table land was \$40,000 per acre. These rates were accepted by both parties.

To determine the loss in market value applicable to the subject lands consideration was given to the following. In the case of the Parcel A that will remain floodplain, consideration was given to grade modifications and increased flood storage volume to be constructed on this parcel. It was agreed that a discount of 50% per cent of market value, or \$8,000 per acre, provided a reasonable measure of impact. Based on the land area of 6.74 acres this resulted in a negotiated price of \$53,920.

In the case of Parcel B that in affect has its utility changed from that of table land to floodplain, it was agreed the difference in per acre rate between the two land classifications represented the loss in value of \$24,000 per acre. This reflects the difference between table land at \$40,000 per acre and floodplain land at \$16,000 per acre. Accordingly, based on the land area of 7.53 acres this resulted in a negotiated price of \$180,720.

A split rate approach was also applied in determining a financial consideration for temporary working easements required on land identified as Parcel C that encompasses table land situated outside of the floodplain, and Parcel D that encompasses land contained in the floodplain. The consideration for Parcel C was based on the market value rate of \$40,000 per acre applied to 6.27 acres leased for a term of one (1) year, receiving a 7% annual rate of return, resulting in a consideration of \$17,556. The consideration for Parcel D was based on the market value rate of \$16,000 per acre applied to 3.68 acres leased for a term of one (1) year, receiving a 7% annual rate of return, resulting in a total of \$4,122.

Based upon the foregoing, the total consideration payable for property occupied and used for grade modification and floodplain compensation and temporary working easement is \$256,318 plus GST.

- Property required for floodplain compensation and grade modification:

Parcel A	6.74 acres @ \$8,000	\$ 53,920
Parcel B	7.53 acres @ \$24,000	\$180,720
Sub-Total		\$234,640

- Temporary Working Easements:

Parcel C	6.27 acres x \$40,000 x 0.07	\$17,566
Parcel D	3.68 acres x \$16,000 x 0.07	\$ 4,122
Sub-total		\$21,678

Total Consideration	\$256,318
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This acquisition is recommended for approval.

COMMENTS BY THE WARD COUNCILLOR

The Ward Councillor (Marianne Wilkinson) has received a copy of this report and is in support of the staff recommendations therein.

ENVIRONMENTAL IMPLICATIONS

The City's requirements from this property have been reviewed through the Historical Land Use Inventory. No historic land uses of concern were identified in respect of the property.

CONSULTATION

Public consultation was part of the Provincial Class Environmental Assessment process and included open houses and public notices.

FINANCIAL STATEMENT

Account number	905302
Approved Budget to Date	\$47,700,000
Total Paid and Committed	(\$6,025,449)
Balance Available	\$41,674,551
This Request plus GST	(\$256,318)
Balance Remaining	\$41,418,233

Funds are available in Account 905302 – ISF Terry Fox extension (Flamborough to Kanata)

Financials confirmed By: Jim Carman

Dated: March 29, 2010.

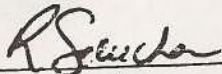
LEGAL/RISK MANAGEMENT

There are no legal/risk management impediments to implementing any of the Report recommendations. There is no requirement for the registration on title of a document for "notice" reasons. The City's work on the floodplain is a MVCA requirement, and it will approve the City's work when done and "sign-off", records of which will remain on MVCA and City records. With respect to the Owner of the lands, an agreement which describes the work done, why it was done, the Owner's consent to the work, her acceptance of the compensation paid and received, and release of the City from any further action or claim, will be held by the City. Any future owner will have no claim to compensation for work directed, authorized and accepted by the MVCA. Furthermore, the City and MVCA records will also show the City has received for its payment – approval to build the Terry Fox Drive (north) extension.

DISPOSITION

Following approval, Realty Services and Legal Services Branch to finalize this property transaction.

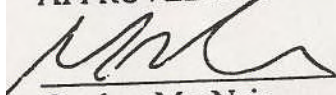
RECOMMENDED BY:



Robin Souchen
Manager, Realty Services Division

Date: 31 Mar. 2010

APPROVED BY:



Gordon MacNair
Director, Real Estate Partnerships and Development Office

Date: 31 MAR 2010

DOCUMENT 1

