

REPORT / RAPPORT

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Nancy +
Cassick*



File/N° de fichier: L04-01-09-09 750 HUNT
Date: 29 March 2010
To / Destinataire: Kent Kirkpatrick
City Manager
From / Expéditeur: Gordon MacNair
Director, Real Estate Partnerships and Development Office
Subject / Objet: DEL2010-RES-0044 PROPERTY ACQUISITION, TERRY FOX DRIVE
(NORTH) EXTENSION: [REDACTED]

REPORT RECOMMENDATION

That the City Manager, approve the acquisition in fee simple of a vacant parcels of land required as part of the Terry Fox Drive (North) extension project, consisting of approximately 10.74 hectares (26.53 acres) owned by [REDACTED], being part of PIN 04524-0052 and described as Part of Lot 7, Concession 1, Geographic Township of March, now City of Ottawa, shown as Parcels "A", "B" and "E" on the attached Document 1, as well as a Temporary Working Easement on land consisting of 3.65 hectares (9.01 acres) shown as Parcel "C" and Parcel "D" on attached Document 1, for the total consideration of \$641,234 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 Innovation Drive. This project followed the process for a Schedule "B" project in accordance with the Municipal Class Environmental Assessment (2007).

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 other words, in order to mirror the existing situation for a particular flood, each stage (or level) is provided with the same storage volume; cut and fill must equate on a level for level basis.

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 north of Richardson Side Road and east of Huntmar Road, shown as Parcels A and B on attached Document 1. Parcel A encompasses 6.06 hectares (14.97 acres) of land within the floodplain of the Carp River; Parcel B encompasses 2.86 hectares (7.06 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 to some extent, 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 of Parcel B, in order to be commensurate with elevations established within the 1 in 100 year floodplain of the Carp River. Therefore, on completion of construction the land contained within 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 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 property requirements consist of a partial taking of 8.92 hectares (22.03 acres) being Parcels A and B, from a larger parcel of vacant land containing approximately 31.69 hectares (78.30 acres). An additional 3.65 hectares (9.01 acres) shown as Parcel C and D is required for temporary work (construction) easements. As a result of the requirement a 4.12 hectare (10.18 acre) site is severed from the larger parcel and is identified as Parcel E on Document 1. 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 hay production.

That portion of the larger parcel identified as Parcels A, D and E is located within the limits of the 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 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).

At the request of the Infrastructure Services Branch negotiations with the property owners were undertaken to acquire the fee simple interest in land required for the floodplain compensation and temporary construction easements. This was supported by two (2) independent appraisals completed on behalf of the City and property owner, respectively, to provide an estimate of market value for the subject land in its highest and best use. The respective appraisals 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.

In valuation of the property requirements, both appraisers 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. However, when analyzing the market data selected the appraisers took a different approach. Upon analyzing market data, the appraiser for the City 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. Based on the land area assigned Parcels A and B this resulted in a blended rate of \$22,386 per acre. Alternatively, the appraiser for the owner applied a blended-rate approach wherein the unit rate of \$21,000 per acre was assigned Parcels A and B, regardless of its designation as floodplain or table land.

Through negotiations this difference in approach resulted in upward pressure applied by the property owner to the rate assigned to floodplain land (\$16,000 per acre) based on market evidence introduced in the City's appraisal, resulting in agreement to apply a split-rate of \$40,000 per acre for table land and \$17,500 per acre for floodplain land. These values remain consistent, within 10%, of values negotiated with other property owners of similar floodplain and table land. This resulted in a consideration of \$544,375 and a blended rate of \$24,719 per acre for the fee simple interest in Parcels A and B (22.03 acres).

A split rate approach was also applied in determination of the consideration for temporary working easements required on land identified as Parcel C that encompasses table land situated outside of the floodplain, and for 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 4.49 acres leased for a term of one (1) year, receiving a 7% annual rate of return, resulting in a consideration of \$12,572. The

consideration for Parcel D is based on the market value rate of \$17,500 per acre applied to 4.52 acres leased for a term of one (1) year, receiving a 7% annual rate of return, resulting in a total of \$5,537. In addition to the above compensation for property requirements identified in the design of the Terry Fox Drive extension (north) project, it was concluded that as a consequence of the partial taking of land for the project, the parcel of floodplain area described as Parcel E on Document 1 was rendered to be a non-viable (severed) parcel from the remainder property. Therefore, disturbance damages in the amount of \$78,750 have been ascribed to the estimated land area of 4.50 acres (1.82ha) for this parcel at the rate of \$17,500 per acre.

Based upon the foregoing, the total consideration payable for fee simple interests and temporary working easement is \$641,234 plus GST.

- Fee Simple Interest

- Project Land Requirements

Parcel A	14.97 acres @ \$17,500	\$261,975
Parcel B	7.06 acres @ \$40,000	<u>\$282,400</u>
		\$544,375
Disturbance Damages (severance)		
Parcel E	4.5 acres @ \$17,500	<u>\$ 78,750</u>

Sub-Total		\$623,125
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- Temporary Working Easements

Parcel C	4.49 acres x \$40,000 x 0.07	\$12,572
Parcel D	4.52 acres x \$17,500 x 0.07	<u>\$ 5,537</u>

Sub-total		<u>\$ 18,109</u>
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Total Consideration		\$641,234
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Realty Services is of the opinion there is no basis of claim for disturbance damages and injurious affection, beyond the compensation recommended in respect of Parcel E above. However, the property owners continue to be concerned that the work being done by the City will cause flood damage on the remainder lands which they will continue to own. Recognizing that this basis of claim may not be realized until after the completion of the works, the property owners would not agree to a full and final release of all entitlements stated in the Expropriations Act as part of the Property Acquisition Agreement. Therefore, as stipulated in the Property Acquisition Agreement to this transaction, executed by the property owners, the above sum of \$641,234 includes the agreed upon payment for the market value of the abovementioned lands, but does not include any and all compensation to which the owner may be entitled pursuant to the Expropriations Act, including but not limited to, disturbance damages and injurious affection. Furthermore, the vendor is to bring such claim within five (5) years from the date of closing of this transaction.

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	(\$6,281,767)
Balance Available	\$41,418,233
This Request plus GST	(\$641,234)
Balance Remaining	\$40,776,999

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

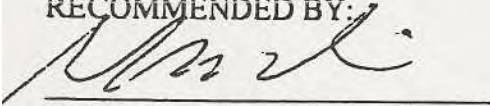
Financials confirmed By: Jim Carman

Dated: March 30, 2010

DISPOSITION

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

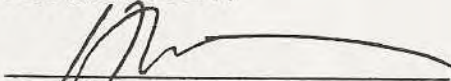
RECOMMENDED BY:



Gordon MacNair
Director, Real Estate Partnerships and Development Office

Date: Apr 1, 2010

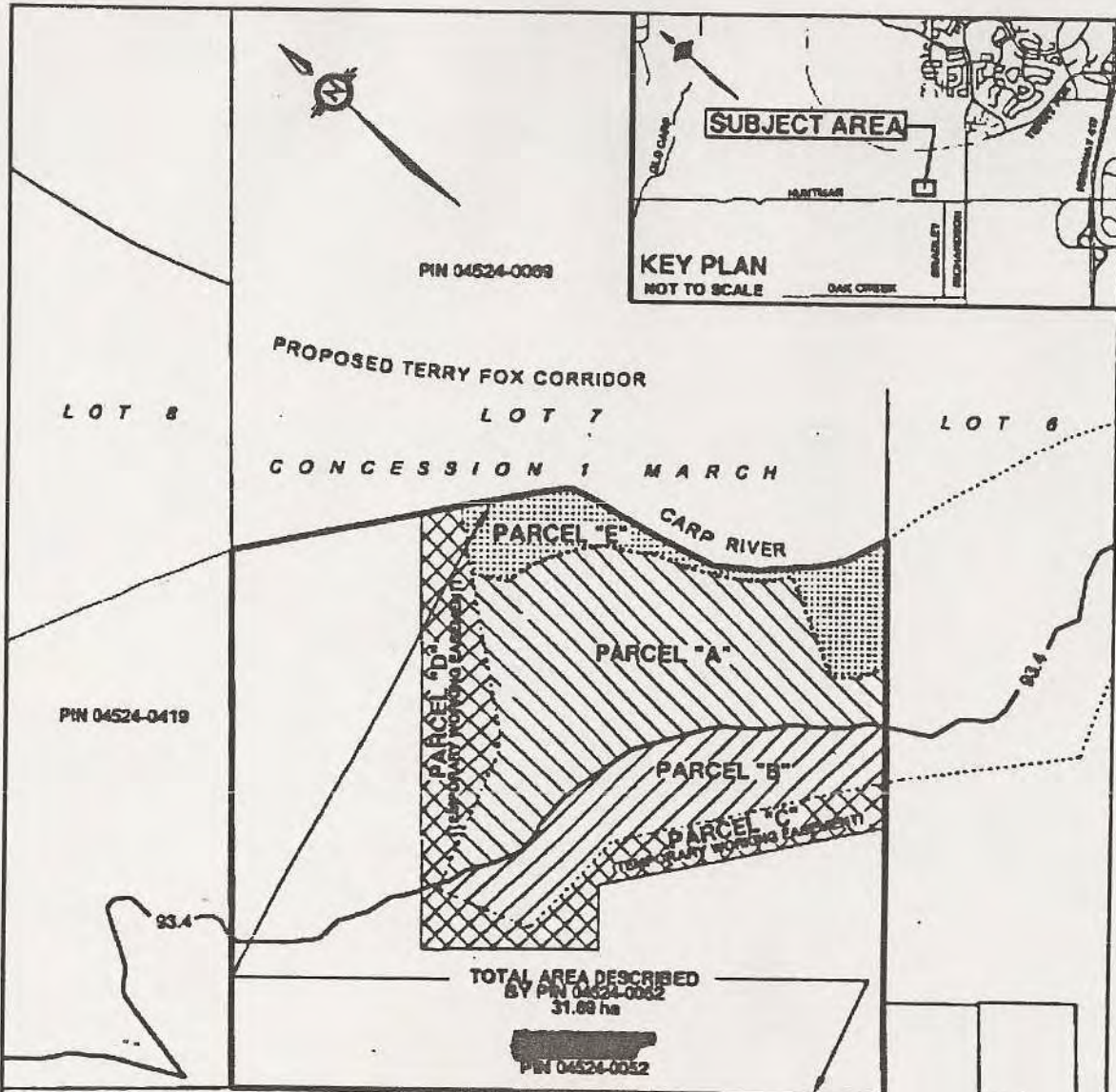
APPROVED BY:



Kent Kirkpatrick
City Manager

Date: APR 1/2010

DOCUMENT 1



AREA REQUIRED

TOTAL AREA (A & B)	8.92 ha
PARCEL "A"	6.06 ha
PARCEL "B"	2.86 ha
PARCEL "C"	1.82 ha
PARCEL "D"	1.83 ha
PARCEL "E"	1.82 ha

CAUTION.
BOUNDARY AND TOPOGRAPHICAL
INFORMATION SHOWN ON THIS SKETCH
MAY NOT BE CURRENT AND ARE
NOT BASED ON AN ACTUAL SURVEY

TERRY FOX DRIVE EXTENSION

OWNER	[REDACTED]	CAD BY	A. MELBOURNE
		CHECKED BY	B. LYNCH
SCALE 1:6000 (METRIC)	DATE MAR. 23, 2010	AREA AS NOTED	NS No. 13536-E.DGN


INFRAStructure SERVICES
 DEPARTMENT
 SURVEYS AND MAPPING UNIT