



## REPORT

### Council

**Meeting Date: August 15, 2023**

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**FROM:** Legal Department

**DATE:** August 1, 2023

**SUBJECT:** Staff Report – Sale of Surplus Land - Block 21 on Plan 20M-1185

**LOCATION:** Servicing Block to the Athabasca Pond

**WARD:** Ward 7

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#### **RECOMMENDATION:**

That staff be authorized to transfer Block 21 on Plan 20M-1185 to the owner of the adjacent lands to the south (Block 14 on Plan 20M-1185) for fair market value compensation, retaining all necessary easements, to the satisfaction of the CAO and Town Solicitor.

#### **KEY FACTS:**

The following are key points for consideration with respect to this report:

- Block 21 on Plan 20M-1185 (the “Lands”) was created and transferred to the Town for the purpose of a servicing block.
- The Lands are not a public road.
- The Town’s interest in owning the Lands is to secure for an underground stormwater pipe, overland flow route and an access route to the Athabasca storm pond for maintenance purposes.
- The Town’s interests can be preserved through easements, so it is not necessary to own the Lands.
- Ownership of the Lands will present challenges to the Town once the two development blocks on Dundas Street (Blocks 14 and 15 on 20M-1185) are developed and a high volume of users start to use the Lands for access between those developments and Postridge Drive.
- The owner of Block 14 is willing to acquire the Lands to incorporate them into their development.

- Staff are recommending transferring the Lands to the owner of Block 14 for fair market value compensation, subject to site plan approval and reserving all necessary easements.

**BACKGROUND:**

Block 21 on Plan 20M-1185 (the “Lands”), shown outlined on Appendix “A”, was created and transferred to the Town for the purpose of a servicing block. The Lands are used as an overland flow route, there is a Town underground storm sewer draining into the pond and the Town uses the Lands as a maintenance access to the Athabasca Pond. Typically, the Town prefers to own its servicing blocks, but these interests can be protected through easements if the Town is not the owner.

The two development blocks to the south of the Lands fronting onto Dundas Street (Blocks 14 and 15 on 20M-1185) have an easement to use the Lands for access purposes. The Lands are not a public road, but they will be used by a large volume of people to access Postridge Drive once Blocks 14 and 15 are developed. The only other planned access point for Blocks 14 and 15 will be a shared right in-right out on Dundas Street.

The anticipated large volume of traffic on the Lands has raised concerns for staff if the Lands remain in Town ownership as a servicing block. Therefore, staff are recommending transferring the Lands to the adjacent owner of Block 14 (Daniels Emshih Oakvillage Corporation) so the Lands can be incorporated into the Block 14 development as a private condominium road servicing both Blocks 14 and 15.

By-law 1995-171, as amended by By-law 2010-104, sets out procedural requirements related to the disposition of an interest in land. For the Lands, the requirements as modified by By-law 2010-104 require a public report:

- Identifying the parcel of land and the interest proposed to be transferred;
- Setting out the reason why the property may be considered surplus to the needs of the municipality; and
- Advising that at least one appraisal of market value has been obtained.

**COMMENT/OPTIONS:**

The Lands present some challenges for the Town if they remain in the Town’s ownership as a servicing block. The Lands are not a public road and are not sized to be a public road, but there is anticipated to be a large volume of traffic treating the Lands as a public road. The insurance protections for the Town if there are accidents on the Lands are not as high as they would be on a public road. Any accidents on the Lands could attract liability to the Town.

The Lands currently terminate at the west end in a bulb, but they will eventually lead into a private condominium road that runs further west into the development blocks and then south to Dundas Street. Once this new private road is built, it will be difficult to delineate the boundary between Town owned lands and the privately owned lands as the bulb will disappear. The Lands and the private condominium road will operate as a continuous access route. This could present operational challenges for snow clearing and maintenance between the Town and the future condominium corporation.

The Lands are frequently used for illegal parking that will likely get worse once the developments on Block 14 and 15 are complete. The Lands are not wide enough to include parking and two-way traffic, so there will need to be constant parking enforcement to preserve the access. The condominium corporation on Block 14 would be better suited to police its own users. The owner of Block 14 would also prefer to put hydro infrastructure within the Lands rather than use space in its development block, so this transfer would facilitate their concern.

The Town's interests in the Lands are to protect for and maintain the underground sewer, ensure the grading is maintained so the Lands can continue to be used for an overland flow route, and ensure the Town has access over the Lands to get to the Athabasca Pond for maintenance purposes. These interests can all be secured with easements, so the Town does not need to own the Lands and they can be considered surplus to the Town's needs.

For the above reasons, staff are recommending transferring the Lands to the owner of Block 14 to incorporate it into their development as part of the condominium road. The transfer would be at fair market value, subject to obtaining site plan approval for the development on Block 14, and the Town would retain the necessary easements to preserve the Town's interests in the Lands.

The Developer has obtained an appraisal for the market value of the Lands. If Council approves the sale of the Lands, staff will work with the owner to come to an agreement on the compensation based on the appraisal in an amount satisfactory to the CAO and Town Solicitor.

**CONSIDERATIONS:**

**(A) PUBLIC**

The inclusion of this report in the Council agenda will provide public notification.

**(B) FINANCIAL**

The Developer will be responsible for all costs to complete the transaction. The sale price will be valued at a fair market rate based on an appraisal and the proceeds deposited in the Town's general capital reserve.

**(C) IMPACT ON OTHER DEPARTMENTS & USERS**

The Parks and Open Space, Transportation and Engineering and Planning Departments were consulted in the preparation of this report.

**(D) CORPORATE STRATEGIC GOALS**

This report addresses the corporate strategic goal to be the most livable town in Canada.

**(E) CLIMATE CHANGE/ACTION**

N/A

**APPENDICES:**

Appendix A: Aerial Map showing the location of Block 21 on Plan 20M-1185

Appendix B: Excerpt from Plan 20M-1185 showing Blocks 21, 14 and 15

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