

REPORT

PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: MAY 13, 2019

FROM: Legal Department

DATE: April 25, 2019

SUBJECT: 700 Third Line - Road Widening

LOCATION: 700 Third Line

WARD: 1

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RECOMMENDATION:

1. That the Town accept the road widening described as Parts 3 and 8 on Plan 20R-20869 under the site plan application for 700 Third Line (SP. 1626.011/04).
2. That the Town require the owner of 700 Third Line to pay compensation in the amount of \$80,000 as part of the site plan application to mitigate the impacts to the Town in accepting the contaminated road widening lands.

KEY FACTS:

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

- The owner of 700 Third Line has applied for a site plan application and the Town is requiring a road widening for Third Line as part of the application.
- The road widening lands are contaminated and would be costly for the owner to remediate.
- Staff reviewed the contamination reports and concluded that the risks to the Town in accepting the contaminated lands is relatively low and could be mitigated.
- The owner hired a consultant who estimated the additional costs to the Town in dealing with the contamination would be \$80,000.
- Staff hired a peer review who agreed with the consultant's estimates.
- Staff are recommending making an exception and accepting the road widening lands as-is, provided the owner pay the Town the \$80,000 to mitigate the future additional costs of dealing with the contamination.

BACKGROUND:

The owner of 700 Third Line (the "**Owner**") has applied to the Town for a site plan application to permit the expansion of an existing self-storage facility. The proposed

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works include a three-storey expansion to the existing building, two new one-storey buildings and expansion of the existing parking area.

As part of the site plan process, the Town identified a road widening along Third Line designated as Parts 3 and 8 on Plan 20R-20869 (the “**Lands**”) that is required for the future widening of Third Line.

The Lands and the rest of 700 Third Line are contaminated and a Record of Site Condition (RSC) was filed to the Ministry of the Environment, Conservation and Parks (MECP) in 2013. Through this process, the Ministry reviewed and approved the risk assessment information submitted. The entire 700 Third Line property is now subject to a Certificate of Property Uses (CPU), which contains certain requirements and risk mitigation measures that must be carried out by the property owner in order to reduce and minimize the contamination risks to the property users and the environment. The main contamination is located underneath the center of the current main building at the property due to historic operation on the 700 Third Line property.

As for the contamination of the Lands, there is minor metal contamination in the soil and a slight elevation of volatile organic compounds (VOCs) and petroleum hydrocarbon (PHC) contamination in the groundwater coming from the main contamination east of the Lands.

COMMENT/OPTIONS:

When road widenings are dedicated to the Town in a development process, the Town requires the land be clean and free of contamination prior to the dedication. In this case, the cost to the Owner in making the Lands clean would be substantial. The estimated remediation cost for the Lands was estimated to be between \$350,000 to \$400,000, which would include the excavation of the contaminated soil and the installation of a permeable reactive barrier to prevent the contaminated groundwater from travelling to the Lands. Council could require the Lands to be cleaned up prior to transferring them to the Town. However, the high costs may cause the Owner to reconsider their development or appeal the condition. Therefore, staff feel that an exception should be considered given the low risk to the Town and the Owner's mitigation offer.

The risks to the Town in accepting the contaminated Lands are relatively minor. The Ministry clarified that the Town will not be liable for the fulfillment of any of the CPU obligations related to any other part of the property other than the Lands and the Owner is still required to carry out the other CPU obligations related to the remainder of 700 Third Line. In addition, the Owner is required to continue conducting the monitoring program at Third Line as one of the CPU obligations and

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take action deemed necessary by the Ministry if the contamination leaving the property increases. The fact that the Town's use of the Lands will be a future road also mitigates the risk because the hard asphalt surface acts as a barrier separating the road users and the contamination. Lastly, the rest of Third Line along the current property boundary likely already has the same or similar minor groundwater exceedances as are in the Lands.

The Owner hired a consultant to analyze the risks to the Town in accepting the Lands as-is. As well, a soil and groundwater management plan and a specific Health and Safety procedure for the Lands was developed for conducting future soil or underground work. The Town hired a consultant to peer review the report and the relevant plan and procedures. The Town's consultant was satisfied with the plan and procedures and agreed that the estimated additional costs to the Town would be approximately \$80,000 (the "**Mitigation Compensation**"). The Mitigation Compensation will cover the additional costs associated with handling the contaminated soil, carrying out the plans and procedures, testing, and the disposal of the contaminated soil and groundwater at the Lands during the road widening construction in the future.

The Owner has agreed to pay these costs to the Town if the Town will accept the Lands as-is and allow the site plan application to proceed.

The timeline for the road widening of Third Line is not currently in the 10-year capital forecast. So, another option available to the Town is to not require the Lands be transferred now and expropriate the Lands at the time they are required. If Council chooses this option, the Town would likely have to pay compensation for the Lands under the expropriation process and would not have the benefit of the Mitigation Compensation.

Staff are recommending accepting the Lands as-is now as part of the site plan application, and requiring the Owner to pay the Mitigation Compensation to mitigate the costs to the Town of dealing with the contamination.

CONSIDERATIONS:

(A) PUBLIC

The inclusion of this report in Council agenda will provide public notification. In accordance with the Town's Site Plan Control By-law 2005-062, given that the subject lands are not located within 26 m of a residential land use, referral of the proposed site plan application to the Site Plan Committee and associated public notification is not required.

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(B) FINANCIAL

The Mitigation Costs should be deposited in the General Working Capital reserve until required.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

The Planning, Legal and Development Engineering Departments have assisted in the preparation of this report.

(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS

This report addresses the corporate strategic goal to:

- be accountable in everything we do
- be innovative in everything we do
- be fiscally sustainable

(E) COMMUNITY SUSTAINABILITY

The acquisition of the Lands will improve community sustainability by providing improved transportation accessibility and road infrastructure.

APPENDICES:

Appendix A – Reference Plan 20R-20869

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