



## MEMO / NOTE DE SERVICE

To / Destinataire	Mayor and Members of Council
From / Expéditeur	Marian Simulik General Manager and City Treasurer, Corporate Services Department / Directrice générale et Trésorière municipale, Services généraux
Subject / Objet	By-law Approving the Expropriation Date: 17 November 2017 of Properties Required for the Stage 2 Light Rail Transit Project

### PURPOSE

Memorandum detailing the requirement for a by-law approving the expropriation of two properties at municipal addresses 747 and 1181 Richmond Road required for the Confederation (West) Line of the Stage 2 Light Rail Transit Project.

### EXECUTIVE SUMMARY

On March 8, 2017, City Council directed Corporate Real Estate Office staff to proceed with the acquisition of the property interests required to facilitate the construction, use and maintenance of the Stage 2 Light Rail Transit Project and related works. On May 10, 2017 Council approved By-law 2017-176 (the "Application By-law") authorizing the making of an application for approval to expropriate certain property interests.

Corporate Real Estate Office staff has been in contact with owners and occupants of the properties which were included in the Application By-law, consistent with the City's Real Property Acquisition Policy. In order to give additional notice to certain owners and occupants while ensuring that required property interests are secured in time to meet current timelines established for the delivery of the Project, Staff seeks approval to proceed with the expropriation of the two properties identified in the by-law attached in draft as Document 1, at municipal addresses 747 and 1181 Richmond Road (the "Subject Properties").

Property sketches illustrating the Subject Properties are included as Document 2 for reference purposes only.

Staff recommends that council adopt the by-law attached in draft as Document 1 for the purpose of approving the expropriation of the Subject Properties.

## DISCUSSION

The purpose of this report is to update Council on the expropriation process and to obtain authorization to proceed with expropriation of the two Subject Properties. The City will require a fee simple interest in the Subject Properties, as more fully described in by-law attached in draft as Document 1.

### *Acquisition Process to Date*

On March 8, 2017, City Council directed Corporate Real Estate Office staff to proceed with the acquisition of property interests required to facilitate the construction, use and maintenance of the Stage 2 Light Rail Transit Project and related works.

On May 5, 2017 Staff provided a memo detailing the requirement for a by-law authorizing the making of an application to expropriate property interests required for the Stage 2 Light Rail Transit Project.

On May 10, 2017 Council approved the "Application By-law" authorizing the making of an application for approval to expropriate certain lands for the Stage 2 Light Rail Transit Project.

In accordance with Section 6(1) of the *Expropriations Act*, Council must initiate the expropriation by directing staff to serve Notices of Application for Approval to Expropriate ("Notice of Application"), on the registered owners of legal interests in the lands to be expropriated. Of the properties identified in the Application By-law, Staff identified certain priority properties and sent Notices of Application by registered mail to the appropriate owners, interest holders, and occupants of those properties, including the owners, interest holders, and occupants of the Subject Properties on June 28, 2017. Pursuant to the *Expropriations Act*, the notices were published once a week commencing June 29th and ending on July 13th, 2017 for three consecutive weeks in English and French newspapers having general circulation in the Ottawa Region.

Within 30 days of the service of the Notices of Application or the first publication of the notices, persons entitled to receive the Notice of Application may request a hearing of necessity which must inquire if the taking of the lands or any part of the lands required

by the City is fair, sound and reasonably necessary for the construction of the Stage 2 Light Rail Transit Project. The City has not received a request for a hearing of necessity in regards to the expropriation of the two Subject Properties identified in Document 1.

*Statutory basis and practical requirement for the proposed by-law*

Section 6(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 states that the power of the City to acquire land “includes the power to expropriate land in accordance with the *Expropriations Act*.” Section 4 of the *Expropriations Act* requires an expropriating authority, in this case the City, to receive “approval of the approving authority”, in this case, Council, before expropriating any land.

It will be necessary to proceed with the expropriation of the two Subject Properties to provide additional notice to the owners and occupants, over and above that required by the *Expropriations Act*, while still meeting current acquisition timelines for construction. As the expropriation of the Subject Properties will necessarily require the occupants to relocate, providing additional notice will increase certainty for the expropriated owners and occupants of the Subject Properties and will assist the owners and occupants with business planning.

*Expropriation process, should authority to proceed be granted*

In accordance with Section 9 *Expropriations Act* Council, as the approving authority, must confirm its approval of the expropriation of the Subject Properties. After receiving Council’s approval in the form of the by-law enclosed, Staff may proceed to register the required expropriation plans on title to the lands and to serve Notices of Expropriation, Election and Possession in accordance with sections 9, 10 and 39 of the *Expropriations Act*. Owners of property identified in Document 1, and other registered interest holders with respect to interests in that property (e.g. tenants appearing on the assessment roll, mortgagees), will receive the Notices of Expropriation, Election and Possession, in accordance with the *Expropriations Act*. An offer of compensation under Section 25 of the *Expropriations Act* (the “Offer”) will be presented to owners or other interest holders within three months of the registration of the expropriation plan. The amount offered to the owners or interest holders will be determined by an independent, third party appraisal firm and a copy of the appraisal report will be presented with the Offer.

It is important to note that this approval of the expropriation of the Subject Properties, and the completion of the expropriation, does not mean the City will cease negotiations. Staff will continue efforts to achieve a negotiated resolution in all property acquisition matters.

The concurrence of the Mayor and Councillors Taylor and Leiper (as the Subject Properties are located in Wards 7 and 15) has been obtained prior to including the draft by-law in the Council Agenda.

#### FINANCIAL IMPLICATIONS

The current approved capital authority for the Stage 2 Light Rail Transit Project (Capital Project #907926) includes an allocation for property acquisition and related expenditures. Staff have estimated costs associated with the Subject Properties described in the draft by-law attached as Document 1, including costs associated with expropriation, and have concluded that such costs can be met within the approved budget allocation.

If you require further information with respect to the information in this memorandum, please feel free to contact either Gordon MacNair, Director, Corporate Real Estate Office, at extension 21217, or myself at extension 14159.

Marian Simulik

General Manager and City Treasurer / Directrice générale et Trésorière municipale  
Corporate Services Department / Services généraux

cc: Senior Leadership Team

Gordon MacNair, Director, Corporate Real Estate Office

Chris Swail, Director, O-Train Planning

Caitlin Salter-MacDonald, Program Manager, Committee & Council Services  
Branch

Enc. Document 1: Draft by-law

Document 2: Property Requirement Plans illustrating the Subject Properties, for reference purposes only.

**DOCUMENT 1**

**Draft By-Law Approving Expropriation of Certain Properties for the purposes of the Stage 2 Light Rail Transit Project**

BY-LAW NO. 2017 - 380

A by-law to approve the expropriation of certain properties in the City of Ottawa for the purposes of the Stage 2 Ottawa Light Rail Transit System project, as more particularly described in Schedule "A" attached hereto.

WHEREAS the City of Ottawa requires property described in Schedule "A" attached hereto (the "Subject Property Interests") for the purposes of the Stage 2 Ottawa Light Rail Transit System project (the "Stage 2 LRT") including, but not limited to, for the purposes of facilitating the construction, operation and maintenance of light rail infrastructure, tunnel guideway corridors, tunnel portals, at-grade guideway corridors, guideways, stations, station entrances and station to surface access points, platforms, multi-use pathways, bridges and bridge approaches and all other improvements and works ancillary to the Stage 2 LRT;

AND WHEREAS pursuant to Section 6(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, the power of a municipality to acquire land under this or any other Act includes the power to expropriate land in accordance with the *Expropriations Act*, R.S.O. 1990, c.E.26, as amended (hereinafter referred to as the "Expropriations Act") for these purposes;

AND WHEREAS a Notice of Application for Approval to Expropriate Land for both of the Subject Property Interests was served and published, as required by the Expropriations Act;

AND WHEREAS the application has not been referred to a hearing of necessity by either of the owners of the Subject Property Interests and the applicable deadline for such has passed;

AND WHEREAS the City has been unable to reach an agreement with the registered owners to acquire the Subject Property Interests;

NOW THEREFORE the Council of the City of Ottawa hereby enacts as follows:

1. Approval is hereby granted for the expropriation by the City of Ottawa of the Subject Property Interests described in Schedule "A" attached to this By-law, for the above-described purposes.
2. The Mayor, the City Clerk and Solicitor, the Director of the Corporate Real Estate Office, or any one of them are hereby authorized to execute on behalf of City Council the Certificate of Approval and the Expropriation Certificate set out on the Expropriation Plan and all other notices and documents which are necessary to carry out the provisions of this By-law.
3. The Mayor, the City Clerk and Solicitor, the Director of the Corporate Real

Estate Office, or any one of them are hereby authorized to cause the Expropriation Plan to be registered in the Land Registry Office for the Land Titles Division of Ottawa (No. 4) and thereby effect the expropriation of the Subject Property Interests.

4. A Notice of Expropriation be served upon the registered owners together with a copy of the Expropriation Plan and a Notice of Election relating to the date of assessment of compensation.

5. An appraisal report estimating the market value of the Subject Property Interests be obtained from an accredited appraiser.

6. A Notice of Possession be served requiring possession of the Subject Property Interests at least three months after the date of service of said notice.

7. The City is hereby authorized to enter and take possession of the expropriated lands on the day permitted under the *Expropriations Act*, or pursuant to any Court Order thereunder, or pursuant to any agreement entered into between the relevant owners and the City.

8. Subject to any requirement for additional Council approval based on the estimated market value of any registered owner's interest in the Subject Property Interests, an offer of an amount in full compensation for the registered owners' interests in the Subject Property Interests, and an offer for immediate payment of 100% of market value as estimated by the expropriating authority, all in accordance with s. 25 of the *Expropriations Act*, be served, together with a copy of the appraisal report on which the offer of compensation is based.

9. The officers and authorized agents of the City of Ottawa be and they are hereby otherwise authorized and directed to do all things required arising from the authorizations provided for by this by-law.

10. This by-law comes into force on the day it is passed.

ENACTED and PASSED this 22<sup>nd</sup> day of November, 2017.

CITY CLERK

MAYOR

## SCHEDULE "A"

All right, title and interest in the following lands:

1. All of PIN 04282-0677 (LT), PART LOT 24, CONCESSION 10F, PARTS 2 AND 3, 5R12409; OTTAWA/NEPEAN.
2. All of PIN 04751-0121 (LT), PART OF LOT 27, CONCESSION 1 (OTTAWA FRONT) NEPEAN, BEING PARTS 1 AND 2 PLAN 5R10438; CITY OF OTTAWA.

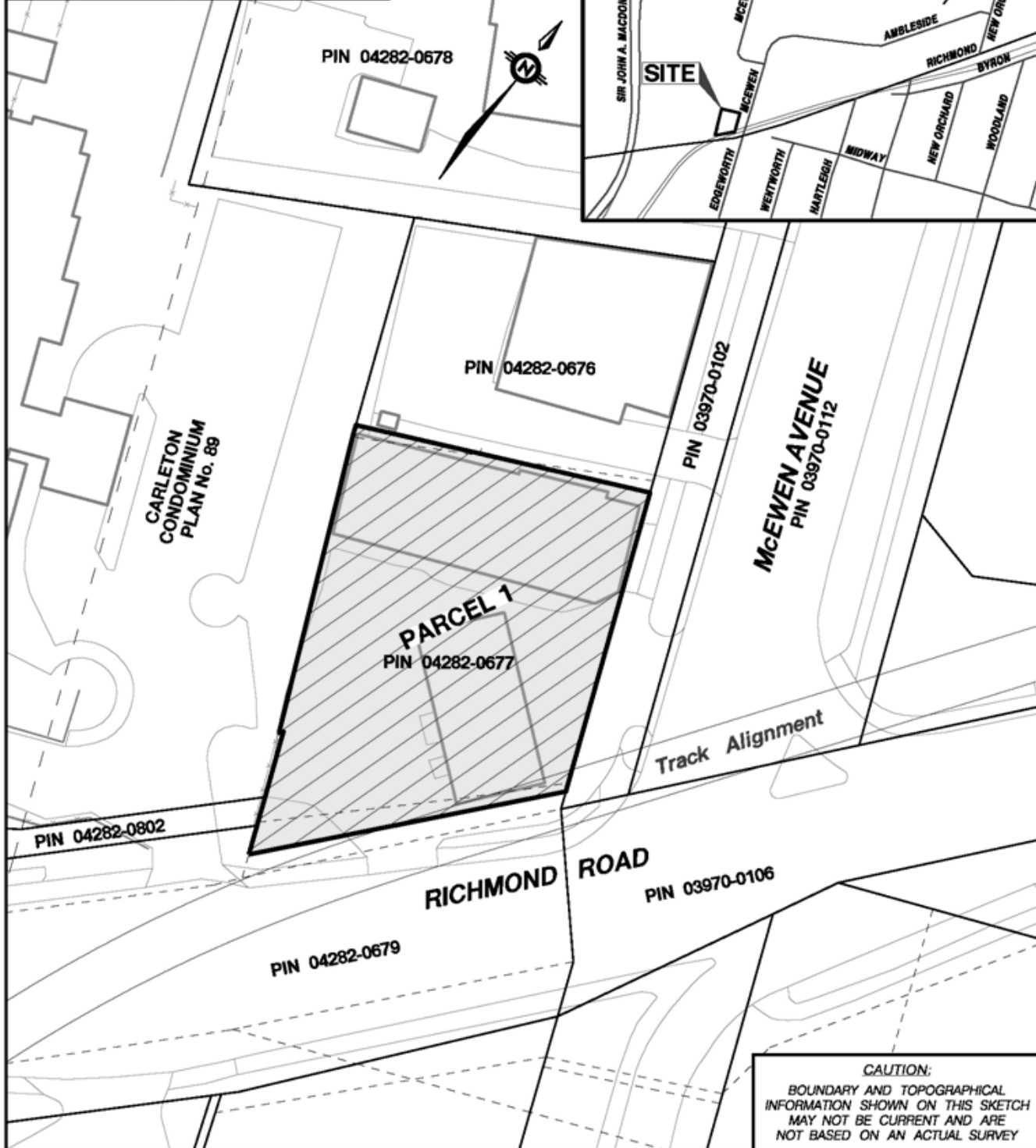
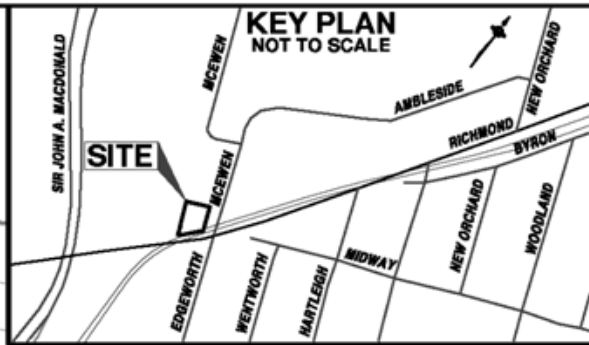




**DOCUMENT 2**

**Property Requirement Plans illustrating the Subject Properties For Reference Only**

PARCEL	ALL OF PIN	AREA (m <sup>2</sup> )	ACQUISITION
1	04282-0677	1120	FEE SIMPLE

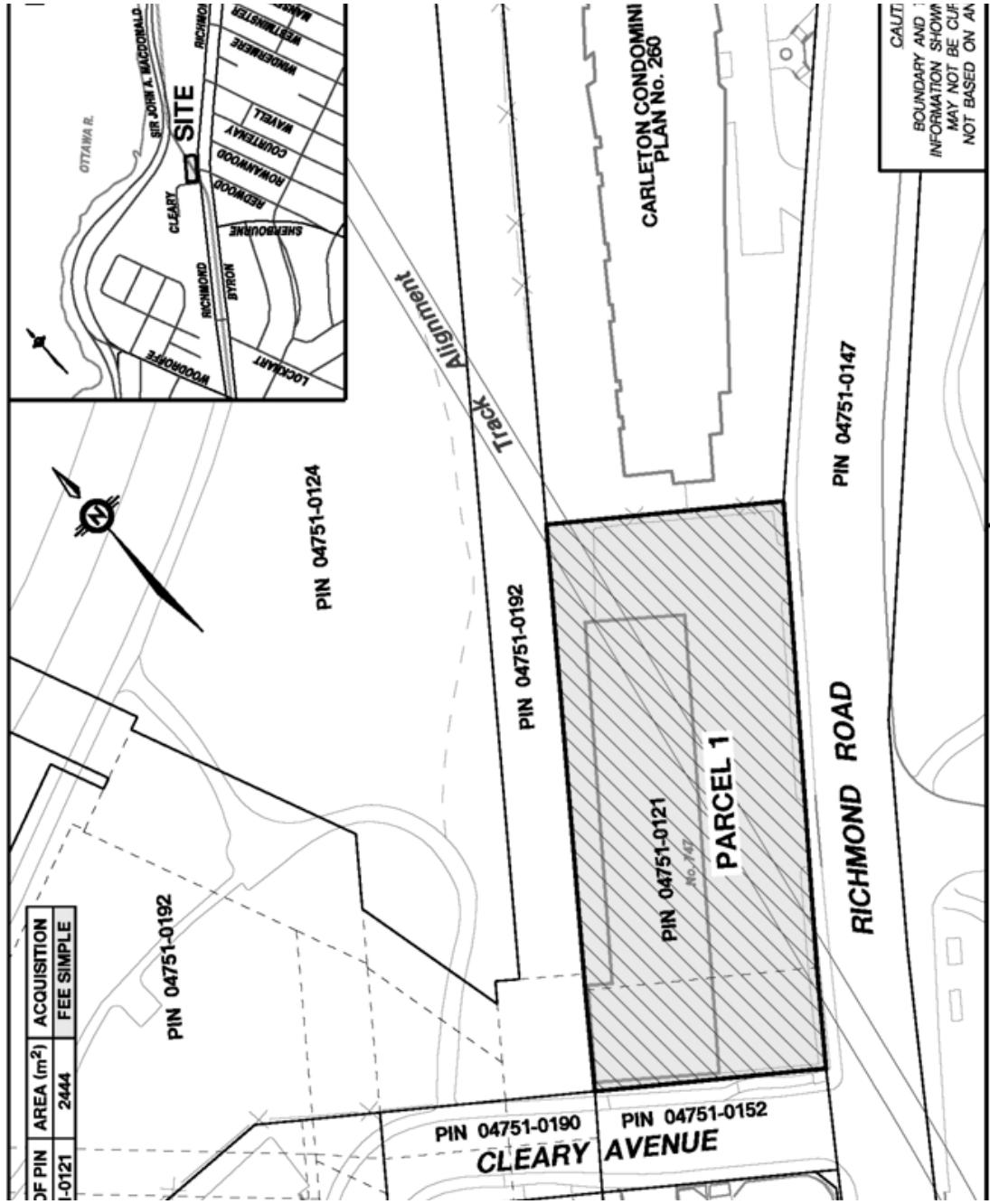


**CAUTION:**  
 BOUNDARY AND TOPOGRAPHICAL  
 INFORMATION SHOWN ON THIS SKETCH  
 MAY NOT BE CURRENT AND ARE  
 NOT BASED ON AN ACTUAL SURVEY

**WESTERN LRT - PROPERTY SKETCHES**

OWNER	CAD BY: J. MUISE		
	CHECKED BY: W.A. HARPER		
SCALE 1:500 (METRIC)	DATE: NOV., 2016	AREA: AS SHOWN	MS No.: 18689-PRP_018a.dgn

**PLANNING, INFRASTRUCTURE AND  
 ECONOMIC DEVELOPMENT  
 DEPARTMENT  
 SURVEYS AND MAPPING UNIT**



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PLANNING, INFRASTRUCTURE,  
ECONOMIC DEVELOPMENT  
DEPARTMENT  
SURVEYS AND MAPPING



**WESTERN LRT - PROPERTY SKETCHES**

CAD BY: J. MUISE	MS No.: 18689-PRP_055b.dgn
CHECKED BY: W.A. HARPER	
AREA: AS SHOWN	
DATE: NOV. 2016	