

**Report to
Rapport au:**

**Council
Conseil**

22 April 2020/ 22 avril 2020

**Submitted on March 25, 2020
Soumis le 25 mars 2020**

**Submitted by
Soumis par:**

Derrick Moodie

Director / Directeur

**Corporate Real Estate Office / Bureau des biens immobiliers municipal, Planning,
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Ward: KNOXDALE-MERIVALE (9)

File Number: ACS2020-PIE-CRO-0008

**SUBJECT: Sale of Land - 1960 Merivale Road and Part of Slack Road to Patrick
Butler, In Trust**

**OBJET: Vente de terrain – 1960, chemin Merivale et partie du chemin Slack, à
Patrick Butler, en fiducie**

REPORT RECOMMENDATIONS

That Council:

1. **Waive Section Sections 2.3 and 5.1 of the Disposal of Real Property Policy pertaining to the public marketing of viable properties.**
2. **Approve the sale of a viable property municipally known as 1960 Merivale Road, described as Part of Lot C, Registered Plan 402691, being Part 1, Plan 4R-32024 and part of Slack Road, described as Parts 10 and 11 on Plan 4R-32012 (to be closed by By-law), subject to an easement to Hydro Ottawa described as Parts 8 and 9, Plan 4R-32024 and any easements that may be required, to Patrick Butler in trust, for \$250,000.00, plus HST, pursuant to an Agreement of Purchase and Sale that has been received.**

RECOMMANDATIONS DU RAPPORT

Que le Conseil :

1. **Renonce aux exigences des articles 2.3 et 5.1 de la Politique sur l'aliénation des biens immobiliers, qui portent sur l'offre au public des biens immobiliers exploitables.**
2. **Approuve la vente d'une propriété exploitable dont l'adresse municipale est le 1960, chemin Merivale, décrite comme une partie du lot C, plan enregistré 402691, illustrée comme étant la partie 1 sur le plan 4R-32024 et d'une partie du chemin Slack, décrite comme constituant les parties 10 et 11 sur le plan 4R-32012 (devant être fermée par voie de règlement municipal), sous réserve d'une servitude à Hydro Ottawa décrite comme constituant les parties 8 et 9, plan 4R-32024 et de toutes servitudes requises, à Patrick Butler en fiducie, pour un montant de 250 000,00 \$,TVH en sus, conformément à la convention d'achat et de vente reçue.**

BACKGROUND

1960 Merivale Road is a vacant parcel of land located at the intersection of Slack Road and Merivale Road. The property was expropriated by the Regional Municipality of Ottawa-Carleton in 1974 for intersection improvements at Merivale Road and Slack Road. The intersection improvements were completed between 1976 and 1991.

As the subject property was expropriated, a company profile search was completed to determine if the previous owners were still a registered company under the Ministry of Government Services, Province of Ontario. The search disclosed that the company had voluntarily dissolved. Legal Services confirmed that as a result of the dissolution, there

are no former owner's rights to re-purchase under on Section 42 of *The Expropriations Act*, as the previous owner/company no longer exists.

The subject property is zoned I1B – Institutional Zone and has an area of approximately 2,088.5 m² (22,481 square feet). The property is shown as Parcels 1, 6 and 7 on Document 1 attached and is legally described as Part of Block C, and part of Slack Road, Registered Plan 402691 being Parts 1, 10 and 11, Plan 4R-32024.

The Purchaser has recently acquired the abutting properties (1970 Merivale Road and 22 Slack Road) formerly owned by Ottawa Hydro and contacted City staff with an unsolicited offer in the amount of \$250K to acquire 1960 Merivale Road and the subject portions of Slack Road.

As a result of the expression of interest received from the abutting owner, Patrick Butler in trust, an internal and utility circulation was completed. The circulation determined that there was no demonstrated need to retain 1960 Merivale Road for a City mandated purpose. The Finance and Economic Development Committee approved Report [ACS2019-CSD-CRE-0001](#) on March 5, 2019, declaring 1960 Merivale Road surplus to City requirements.

DISCUSSION

An internal circulation to City departments did not identify a need to retain the property for any City purposes.

Sections 2.3 and 5.1 of the Disposal of Real Property Policy and Procedures approved by City Council on February 26, 2018, requires that all viable City properties are to be advertised for sale to the general public and that sole sourcing is not permitted. Public notification is to be provided by either placing an add on the City's website or a sign on the property.

It is recommended that Council waive Sections 2.3 and 5.1 in this instance to allow for a direct sale to the abutting owner (the purchaser).

The subject property at 1960 Merivale Road was historically operated as a retail fuel outlet for approximately 25 years. This continued use resulted in soil and groundwater being contaminated by petroleum hydrocarbons beneath this City property and the abutting properties owned by the purchaser.

The City has performed various environmental investigations since the early 1990s and continues to undertake semi-annual groundwater monitoring as part of an established contaminant management program (CMP). Based on costing prepared by two separate third-party consultants, clean-up of the subject property was estimated to cost between

approximately \$900K to \$1.2M (excluding ancillary costs and contingency allowances). With no viable use for the property by the City and owing to the environmental condition, the site has remained vacant and unused under City ownership. The City's Corporate Real Estate Office (Environmental Remediation Unit, ERU) currently allocates approximately \$15,000 annually to conduct ongoing monitoring/sampling of the contamination under the CMP. For the purpose of Public Sector Accounting Standard PS3260 (Liability for Contaminated Sites), the City lists environmental liability for the subject property at \$1,223,855.

Full disclosure of all available environmental reports was provided for review and consideration by the Purchaser.

An internal appraisal undertaken in 2019 indicated a market value for 1960 Merivale Road of approximately \$1.4 million. This value is predicated on the property being clear of all contamination. The appraisal also indicated that the market value "As Is Where Is" is estimated to be \$220,000.00. An external appraisal supports the City's estimates of market value. The unsolicited offer in the amount of \$250K from Patrick Butler, in trust for a company to be named, is conditional on the purchaser taking over responsibility for all onsite environmental contamination and remedial costs, on closing.

As any future remediation of 1960 Merivale Road may be subject to a Brownfields Grant, the sale of this property to the purchaser is subject to a restrictive covenant that will be registered on title. The restrictive covenant will state that the City shall not be obligated to provide any grant or other benefit under any Brownfields Program to the purchaser or to any future owner of the property being purchased. The Restrictive Covenant is required, to ensure that the purchaser and any future owners of 1960 Merivale Road, do not apply for a Brownfields Grant for a property that has already been discounted through the purchase price for the estimated cost to clean-up the environmental contamination.

It is recommended that 1960 Merivale Road be conveyed to Patrick Butler, in trust for \$250K, for the following reasons:

- The purchaser would be taking over responsibility for all onsite environmental contamination and remedial costs, estimated to be approximately \$900,000 - \$1.2 million;
- The sale would alleviate the ongoing monitoring costs and underlying environmental liabilities associated with the abutting privately owned property.

RURAL IMPLICATIONS

There are no rural implications resulting from the recommendations in this report.

CONSULTATION

In accordance with the Disposal of Real Property Policy, the availability of 1960 Merivale Road was circulated to all City Departments on December 16, 2018, which included the Housing Branch, Planning and Infrastructure and City Operations, as well as the Ward Councillor to determine if the property was required for a City mandated program. No department indicated a need to retain this property and in accordance with the Disposal Policy, the potential availability of 1960 Merivale Road for purchase was also forwarded to school boards and government agencies. None of the external agencies indicated an interest in purchasing the property.

The utility companies were also circulated. Hydro Ottawa has advised that they have an anchored pole near the northwest corner of 1960 Merivale Road, and they require that an easement be registered prior to sale.

The Ward Councillor has also been consulted with respect to this report and his comments are indicated under the Comments from Ward Councillor section below.

AFFORDABLE HOUSING LAND AND FUNDING POLICY

The Affordable Housing Land and Funding Policy approved by Council on April 26, 2017, advances the vision and targets established in the Ten-Year Housing Homelessness Plan, the Official Plan and other Council-approved affordable housing initiatives. The policy also requires that the Official Plan target of 25 per cent affordable housing be met on any City owned property where existing or proposed zoning allows for residential uses. These zones include:

All residential zones (R) - Village and rural residential zones (RR, RU, VM, V1 - V3) - Mixed use/commercial zones (TM, AM, GM, MC, MD and TD) and Institutional zones (I1 and I2).

Where a property is disposed of without a condition requiring an affordable housing component in any of the above zones, 25 per cent of the net proceeds from the sale are to be credited to a housing fund to be used for the development of affordable housing elsewhere in the City.

In this case, the subject property is zoned I1 – Minor Institutional Zone and is within the terms of the Affordable Housing Land and Funding Policy. Therefore, 25 per cent of the net proceeds from the sale would be applicable in this case.

COMMENTS BY THE WARD COUNCILLOR

Councillor Egli provided the following comments:

“My understanding is that planning staff were able to answer the local Community Association’s questions. On this basis, I do not have any concerns about this sale of property.”

ADVISORY COMMITTEE(S) COMMENTS

There are no Advisory Committee comments related to the recommendations in this report.

LEGAL IMPLICATIONS

There are no legal impediments to implementing the recommendations in this report.

RISK MANAGEMENT IMPLICATIONS

Subject to approval of the report recommendations and sale of the subject property, environmental risk management implications would be reduced from the perspective of the City. Currently the City is responsible for ongoing contaminant management (approx. 15K annually) and underlying liabilities (estimated \$1.2M) associated with onsite contamination. As per the conditions of the Agreement of Purchase and Sale, the Purchaser would be assuming ownership and responsibility for all onsite contamination. The City will retain ownership and continue to be responsible for risk management associated with limited contamination in the abutting right of way (Slack Road and Merivale Road).

ASSET MANAGEMENT IMPLICATIONS

The recommendations documented in this report are consistent with the City’s [Comprehensive Asset Management \(CAM\) Program](#) objectives. The sale of this site, which has been deemed surplus, will reduce costs and liability to the City by putting a stop to continued environmental monitoring and by removing it from the City’s inventory.

FINANCIAL IMPLICATIONS

Revenue from the sale will be credited to Sale of Surplus Land Account with 25 per cent of the proceeds to be credited to the Housing Reserve Fund as per the Housing First Policy, subject to any adjustments at closing.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with the recommendations in this report.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications resulting from the sale of the property. 1960 Merivale Road was historically occupied by a gas station, which has resulted in soil and groundwater beneath the property being contaminated by petroleum hydrocarbons. The purchaser has been advised of the environmental conditions and has been provided with copies of the City's environmental reports. The City will continue to monitor any offsite migration of contaminants from the property onto the abutting City's right of way.

TERM OF COUNCIL PRIORITIES

The recommendations of this report support City Council strategic policies:

Economic Growth and Diversification with a goal to provide growth in business investment.

Sustainable Infrastructure with a goal to divesting the City from future liabilities for the subject property.

SUPPORTING DOCUMENTATION

Document 1 Location Map

DISPOSITION

Following approval, the Corporate Real Estate Office and Legal Services will initiate measures to complete the sale of 1960 Merivale Road and the portions of Slack Road.

CONCLUSION

Staff supports the sale of 1960 Merivale Road to Patrick Butler, in trust.

Document 1

