Subject: Acquisition of Nantes Woods through Land Exchange

File Number: ACS2022-PIE-CRO-0005

Report to Finance and Economic Development Committee on 7 June 2022

and Council 22 June 2022

Submitted on May 26, 2022 by Derrick Moodie, Director, Corporate Real Estate Office, Planning, Real Estate and Economic Development Department

Contact Person: Peter Radke, Manager, Realty Initiatives and Development, Corporate Real Estate Office

613-580-2424, 12551, peter.radke@ottawa.ca

Ward: Cumberland (19)

Objet : Acquisition du boisé Nantes par voie d'échange de terrains

Dossier : ACS2022-PIE-CRO-0005

Rapport au Comité des finances et du développement économique

le 7 juin 2022

et au Conseil le 22 juin 2022

Soumis le 26 mai 2022 par Derrick Moodie, Directeur, Bureau des bien immobilier municipal, Services de la biens immobiliers municipal, Direction générale de la planification, de l'immobilier et du développement économique

Personne ressource: Peter Radke, Gestionnaire, Initiatives immobiliere et developpement, Bureau des biens immobiliers municipal

613-580-2424, 12551, peter.radke@ottawa.ca

Quartier : Cumberland (19)

REPORT RECOMMENDATIONS

1. **That the Finance and Economic Development Committee declare the property municipally known as 5432 Innes Road, legally described as being Part of Lot 1, CON 8, Cumberland, being all of PIN 145650036, containing an area of approximately 12.63 hectares (31.20 acres), more particularly described, and shown as Parcel 1 on Document 2, attached as surplus to City requirements.**

2. **That the Finance and Economic Development Committee recommend City Council:**

   a) **Waive articles 2.3 and 5.1 of the Disposal of Real Property Policy and approve the sale of lands described in Recommendation 1 to Provence Orleans Realty Investments Inc.**

   b) **Approve the acquisition of a fee simple interest in lands owned by Provence Orleans Realty Investments Inc. being part of PIN 145642832, containing an area of approximately 4.50 hectares (11.12 acres), legally described as Part of Lot 2, CON 9, RP 4M-1062 shown as Part 1 on Document 1 using the funds generated by the disposal of lands as described in recommendation 2.a).**

   c) **Approve a credit to Provence Orleans Realty Investments Inc. for over-dedication of 1.54 hectares (3.793) acres of lands by Provence Orleans Realty Investments Inc. for the Transitway, shown as Part 3 on Document 1, as outlined in the Ontario Land Tribunal decision dated March 28, 2022 (OLT-21-001575) using the funds generated from the disposal of the City lands in recommendation 2.a).**

   d) **Approve the use of funds by Recreation, Culture and Facility Services (RCFS) held in the Rock Knoll acquisition account 902396 for the development of the parkland associated with the acquisition recommended in this report.**

   e) **Delegate authority to the General Manager, Planning, Real Estate and Economic Development to enter into, conclude, execute, amend, and implement, on behalf of the City, the Property Acquisition and Disposal Agreement for the acquisition of the Fee Simple Lands in**

the form of Land Exchange and payment for over dedication of Transitway lands, as described in this report.

RECOMMANDATIONS DU RAPPORT

1. **Que le Comité des finances et du développement économique déclare excédentaire, par rapport aux besoins de la Ville, la propriété dont l'adresse municipale est le 5432, chemin Innes et qui est décrite officiellement comme faisant partie du lot 1, concession 8, à Cumberland, enregistrée sous le NIP 145650036, comprenant une superficie d'environ 12,63 hectares (31,20 acres), plus précisément décrite et illustrée comme la parcelle 1 dans le document 2 ci-joint;**

2. **Que le Comité des finances et du développement économique recommande au Conseil :**

   a) **de renoncer aux exigences des articles 2.3 et 5.1 de la Politique sur l'aliénation des biens immobiliers et d'approuver la vente de la propriété décrite à la recommandation 1 à Provence Orleans Realty Investments Inc.;**

   b) **d'approuver l'acquisition d'un intérêt en fief simple pour des terrains appartenant à Provence Orleans Realty Investments Inc. qui font partie du NIP 145650036, d'une superficie d'environ 4,50 hectares (11,12 acres), légalement décrits comme étant une partie du lot 2, concession 9, plan enregistré 4M-1062, illustrés comme la partie 1 du document 1, au moyen des recettes générées par l'aliénation des terrains décrite dans la recommandation 2.a);**

   c) **d'approuver un crédit à Provence Orleans Realty Investments Inc. pour la suraffectation de 1,54 hectare (3,793 acres) de terrain par Provence Orleans Realty Investments Inc. pour le Transitway, terrain illustré comme étant la partie 3 dans le document 1, conformément à la décision du Tribunal ontarien de l'aménagement du territoire datée du 28 mars 2022 (OLT-21-001575) par le biais des fonds excédentaires découlant de l'aliénation de terrains municipaux décrite dans la recommandation 2.a);**

d) d’approuver l’utilisation par la Direction générale des loisirs, de la culture et des installations (DGLCI) des fonds conservés dans le compte d’acquisition foncière pour le parc Rock Knoll, numéro 902396, pour l’aménagement du parc associé à l’acquisition recommandée dans le présent rapport;

e) de déléguer au directeur général, Direction générale de la planification, de l’immobilier et du développement économique, le pouvoir de signer, d’exécuter, de modifier et de mettre en œuvre, au nom de la Ville, l’entente d’acquisition et d’aliénation de propriété pour l’acquisition en fief simple des terrains sous la forme d’échange de terrains et de compensation pour suraffectation de terrains du Transitway, comme le décrit le présent rapport.

BACKGROUND

On 23 October 2013, Council approved an update to the Urban Natural Features Strategy (UNFS) including a recommendation for acquisition of the full area of Nantes Woods, also known as Rock Knoll Park.

Nantes Woods lies in the Portobello South neighbourhood of Cumberland Ward. It is 11.4 acres (4.6 hectares) in size, of which 2.2 acres (0.9 hectares) is owned by the City. The remainder is owned by Provence Orleans Realty Investments Inc. (PORI). It originated as a farm woodlot and contains a mature deciduous forest. The woods most likely survive because the shallow, underlying bedrock outcrop prevented cultivation. This low outcrop consists of relatively flat limestone with numerous fractures and weathered crevices, which is a type of micro-karst called, “*karren*”. Although locally common in different locations throughout Ottawa, this type of bedrock has high conservation value as wildlife habitat, for natural infiltration of precipitation, and for groundwater recharge.

Nantes Woods scored “low” in the original Urban Natural Areas Environmental Evaluation Study (UNAEES), mainly due to its isolation and high level of human disturbance. However, the Urban Natural Features Strategy identified it for acquisition as the former Township of Cumberland had long identified it for environmental protection. To that end, the former Township had collected development charges amounting to $183,000. The UNAEES also tended to undervalue the social values of urban natural areas, which are high for Nantes Woods. Among other public uses, Nantes Woods supports education programs by the local school, including two immediately adjacent outdoor classrooms.

Since approval of the UNFS, the City has explored different means to acquire and protect the full woodlot. However, with the UNFS requiring the City to compensate the owners at fair market value, no affordable option had presented itself until the current proposal.

Nantes Woods and Shea Road Woods in the Fernbank Community are the last two woodlots proposed for purchase by the City under the Urban Natural Features Strategy. Under the 2009 Comprehensive Official Plan update (OPA 76) and the new Official Plan, natural heritage features in new urban growth areas are to be conveyed to the City at a nominal charge, as a condition of inclusion of the surrounding lands in the urban boundary.

DISCUSSION

Nantes Woods is a woodlot in the southeast of Orleans bordered by Portobello Boulevard to the west, Provence Avenue to the east, the future transitway to the north, and City owned “Lalande Conservation Park” to the south. Used by the community for passive activities such as walking, running, and dog walking, Nantes Woods is one of the two last Urban Natural Features that the 2013 Urban Natural Features Strategy Update identified for acquisition due to its environmental and social significance.

Acquisition of this property as noted in Recommendation 2b will protect important urban greenspace, increase Ottawa’s tree canopy cover, and ensure continuing access by residents to high quality, active and passive, outdoor recreational space.

Considering these benefits, the City entered into protracted negotiations over several years with the owner, PORI, to acquire this woodlot. Over this time period the area under consideration has changed due to required parkland dedication as a result of the subdivision process which required constant adjustment to the actual requirement. Valuations of the land also changed over time and no agreement could be reached between the parties. A further complication has been an appeal to the Ontario Land Tribunal by PORI contesting the City’s requirement to dedicate transitway lands at no cost to the City as part of the subdivision approval of the lands abutting the woodlot.

Given the woodlot’s importance to the community and the City, various approaches were taken during the negotiations whereby both the City and the owner could be seen as benefitting.

Due to budget constraints in the past two years (during the pandemic) a satisfactory solution for both parties appeared to be in the form of a land exchange. The City is the owner of a 31.20 acre parcel of land (PIN 145650036) on the southwest corner of Frank Kenney and Innes Road (Document 2), and this was proposed to PORI as a possible exchange for the required woodlot land.

An internal and external circulation was undertaken in May 2021 resulting in no objections to the disposal of the land under discussion. Transportation Services however indicated a future requirement for Trim Road alignment south of Innes Road. The future Trim Road alignment south of Innes Road must meet the alignment of the Right of Way protected for Trim Road to the north of Innes Road. Therefore, the City will at a future date require part of the lands, as identified in the 2004 Environment Assessment for future road alignment work. The lands must be taken into consideration as part of any site development application. Based on the results of the circulation, Recommendation 1 requests that FEDCO declare the lands surplus to City needs.

Recommendation 2.a) requests City Council to waive articles 2.3 and 5.1 of the City's Disposal of Real Property Policy. Article 2.3 does not permit the sole sourcing of City lands and Article 5.1 requires public notice of the potential disposal of City lands. With limited dedicated budget for the acquisition of the Nantes Woods parcel, the only viable option for City staff was to propose a land exchange with PORI. As the present land exchange offers a unique opportunity to fund the acquisition of the Nantes Woods lands, staff supports Recommendation 2a.

The exchange of these lands and the value described herein is contingent on the Minister's approval of the City's New Official Plan. Council has included the lands to be conveyed to PORI (described in Document 2) as Urban Expansion Lands in the new Official Plan. Prior to any development of those lands, an official plan amendment would be required to lift the Future Neighbourhoods Overlay.

Given the size of the City owned land proposed in the exchange (31.20 acres), additional lands surrounding the Woodlot were offered by PORI to be included as a buffer area to further enhance the Natural Environment Area. The total area to be acquired by the City is 11.12 acres (Part 1 in Document 1) with an additional 1.19 acres (0.48 ha) to be dedicated as Parkland (Part 2 in Document 1) for a total area of 12.31 acres.

Independent appraisals were completed (one by each side for each of the properties) producing current market value estimates as follows:

Nantes Woodlot lands of 11.12 acres ranged between $8,108,000 and $10,041,360.

City Lands of 31.20 acres ranged between $13,690,000 and $14,375,000.

It was agreed to split the difference between each of the appraisals resulting in a value for the Nantes Woodlot of $9,074,680 and the City land of $14,032,500. The resulting difference being that PORI would also pay to the City the difference of $4,957,820.

An additional credit to PORI in the form of a re-payment of a prorated credit on subdivision application fees of ($25,294.37) to replace those already paid in relation to the Woodlot lands (Phase 6), as detailed below was agreed to.

The original application indicated a development total of 109 units equating to paid development application fees of $70,262.16. If the land exchange proceeds, PORI is anticipating being able to develop a total of 70 townhouse units on the retained lands (known as “Plainridge Loop”). This results in a loss of 39 units. A prorated credit of 36%, equating to $25,294.37 has been credited reducing the amount payable to $4,932,525.63 ($4,957,820 - $25,294.37 = $4,932,525.63).

Additionally, PORI is owed payment pursuant to the recent decision by the Ontario Land Tribunal in its appeal concerning dedication of the transitway lands in this proposed subdivision. The Ontario Land Tribunal (OLT) found that PORI should only have been required to dedicate, at no cost, 1.346 acres of Block 54 (Transitway land) of a total of 5.143 acres, with the remaining requirement to be purchased by the City. Recommendation 2c suggests the City address this additional payment for the transitway land in conjunction with the Nantes Wood land exchange by providing PORI a credit on the remaining funds owed by PORI to the City.

It was agreed that the purchase price of the additional transitway lands requirement would be based upon the agreed price for the Nantes Woodlot lands at $816,068 per acre. The difference between the requirement and the dedication allowed under the OLT’s decision is 3.793 acres. Therefore, the amount due to PORI under this decision for the transitway requirement is $3,095,347.25 and is now proposed as credit to PORI under this land exchange.

In summary, the agreement crafted between the two parties will result in the City acquiring 11.12 acres to preserve the Nantes Woods and buffer area, the City disposing of 31.20 acres to PORI, a credit of $3,095,347.25 to PORI to resolve an OLT decision, a cash payment to the City of $1,837,178.38 ($4,932,525.63 - $3,095,347.25).

The land being acquired by the City (Nantes Woods) will be administered and maintained by RCFS going forward and as such all monies collected under a special area charge established by the former City of Cumberland for acquisition of the woodlot will be provided to RCFS for such activities. Recommendation 2.d) of this report addresses this proposed action. Currently, this fund totals $183,000 and is held in account 902396 Rock Knoll Acquisition Account.

RURAL IMPLICATIONS

There are no rural implications related to implementing the recommendations in this report.

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% 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% 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.

5432 Innes Road is zoned RU – Rural and therefore 25% of the net proceeds from the sale will be directed to Housing Account 820055-507320.

CONSULTATION

The Corporate Real Estate Office did not conduct public consultation with respect to this project. Transportation Planning, Natural Systems, Recreation, Cultural and Facility Services and Environmental Remediation were consulted and support the report recommendations.

COMMENTS BY THE WARD COUNCILLOR

The Ward Councillor has received a copy of this report and is in support of the staff recommendations.

LEGAL IMPLICATIONS

There are no legal impediments to implementing the recommendation of this report.

If approved Legal Services staff would negotiate and finalize a Land Exchange Agreement to provide for the transaction described in the Recommendations. The said agreement would be executed under delegated authority by the General Manager, Planning, Real Estate, and Economic Development.

The new Official Plan has been submitted for Ministerial approval but has not yet been approved. The land exchange in issue would be conditional upon the receipt of such approval for the new Official Plan. Closing of the agreement would occur at a mutually agreeable date following the approval of the Official Plan.

RISK MANAGEMENT IMPLICATIONS

There are no risk implications to implementing the recommendations of this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications associated with this report.

FINANCIAL IMPLICATIONS

Recommendations 1 and 2 e): There are no direct financial implications.

Recommendations 2 a) – c): The City will receive a cash payment of $1,837,178.38 as described within the report. The associated expenses, including closing costs and sunk HST on the full values of the Nantes Woodlot and the Transitway over-dedication, will be charged against the cash payment. The net-of-expenses proceeds will be directed to the Housing Reserve, 25%; and to City-Wide Sale of Surplus Lands, 75%.

Recommendation 2 d): Funds in the amount of $183,000 are available within 902396 Rock Knoll Land Acquisition.

ACCESSIBILITY IMPACTS

There are no accessibility implications associated with implementing the recommendations of this report. The park and related facilities will meet all accessibility standards.

ENVIRONMENTAL IMPLICATIONS

The City's Environmental Remediation Unit (ERU) has completed environmental due diligence review in support of the acquisition of lands at 2065 Portobello Road (PIN 14564003). A Phase I Environmental Site Assessment (ESA) was completed by a qualified consultant on behalf of the current property owner (PORI) and copies of the report(s) have been shared with the City. Based on information from the Phase I ESA and review by ERU, there were no significant issues or areas of potential environmental concern (APECs) identified for the property that should need to be investigated or contemplated prior to acquisition.

TERM OF COUNCIL PRIORITIES

The recommendations in this report support the City Council priorities:

- Thriving Communities and Environmental Stewardship.

SUPPORTING DOCUMENTATION

Document 1 Provence Orleans Realty Investments Inc. Lands to be acquired

Part 1 – 11.12 acres - Lands to be Conveyed to the City - Nantes Woods

Part 2 – 1.19 acres - Parkland dedication lands

Part 3 – 5.14 acres - Transitway dedication.

Document 2 City Lands to be disposed

Parcel 1 – 31.20 Acres

Document 3 Transaction Calculations

DISPOSITION

Following approval by Council, Legal Services, Planning Services and Corporate Real Estate Office staff will implement the recommendations in this report.