

Our File/N/Réf. 09-95-03204-003

Your File/V/Réf.

DATE 21 May 1996

TO/DEST. Co-ordinator
Corporate Services and Economic Development Committee

FROM/EXP. Planning and and Property Commissioner

SUBJECT/OBJET **PROPOSED LAND EXCHANGE
KNOXDALE ROAD, WEST OF GREENBANK ROAD
CITY OF NEPEAN**

DEPARTMENTAL RECOMMENDATIONS

That the Corporate Services and Economic Development Committee and Council, subject to the legal closing of a portion of Knoxdale Road:

- 1. Declare as surplus to Regional needs, that part of Knoxdale Road located westerly of Greenbank Road and northerly of Hunt Club Road, in the City of Nepean legally described as Parts 1 to 9, on Reference Plan 4R-11190, plus those lands described as Parts 2 and 3 on Plan 4R-11117 containing a total of approximately 7253.1 m² (78,074.3 ft²), as indicated on Annex "A", attached;**
- 2. Accept an Offer from Joseph Cuthbert Gaffney to sell to the Region approximately 437.5 m² (4709.4 ft²) of vacant land, described as being Part of Block O, on Plan No. 627624, and shown as Part 1 on Reference Plan No. 4R-11117, for the consideration of \$1.00, as indicated on Annex "A", attached;**
- 3. Approve the sale of surplus Regional land to Joseph Cuthbert Gaffney described as Parts 4, 5, 6, 7, and 8 on Plan 4R-11190, plus those lands described as Parts 2 and 3 on Plan 4R-11117 containing a total area of approximately 3481.5 m² (37,475.8 ft²) for the consideration of \$1.00, subject to the conditions set out in the body of this report.**

BACKGROUND

In 1995 the Region undertook the construction of Hunt Club Road Extension between Greenbank Road and Highway # 416 including intersection improvements at Greenbank Road and Hunt Club Road. As a result of these works, portions of the former Road Allowance Between Lots 30 and 31, Concession 3, Rideau Front, closed by by-law 199/86, were considered surplus to Regional requirements. These lands are described as Parts 2 and 3 on Reference Plan 4R-11117. Also, as a result of the works, a portion of Knoxdale Road located north of the new Hunt Club Road Extension and running westerly from Greenbank Road is proposed to be closed as a public Street and declared surplus to Regional requirements.

Located on the westerly side of Greenbank Road, between Hunt Club Road Extension and the portion of Knoxdale Road to be closed is a gas bar owned by Joseph Cuthbert Gaffney. The property presently has access and egress from Knoxdale Road together with right-in and right-out from Greenbank Road. The closure of Knoxdale Road would reduce the access to this commercial property to a single restricted access from Greenbank Road.

As part of the proposed road closing process and pursuant to the Municipal Act, staff have been negotiating with both owners adjacent to Knoxdale Road. Mr. Gaffney has indicated that he does not have any objection to the closing provided that he can exercise his option to acquire part of the closed road allowance. Without these lands Mr. Gaffney feels that he would not be able to continue with the operation of his gas bar with only one substandard entrance from Greenbank Road. The Gaffney property has its primary access from Knoxdale Road and the secondary access from Greenbank.

The lands adjacent to and north of Knoxdale Road are owned by Carleton Condominium Corporation No. 37. The Corporation has indicated no interest in the surplus Knoxdale Road lands subject to certain conditions relating to the protection of their property. These conditions are as follows:

1. That parts 1,2, and 3 on Plan 4R-11190 remain under control and management of RMOC.
2. That any purchaser of parts 4, 5, 6, and 7 on Plan 4R-11190 maintain at least parts 4, 5, and 6 as grass lands and install a visual barrier along the southernmost boundary of such grasslands
3. That the visual barrier be at least a cedar hedge with minimum height of five feet above ground level at the time of installation and that it be maintained in good and healthy condition at all times by the said purchaser; and,
4. That the exit and asphalt pathway leading to the sidewalk along Greenbank Road at the south-eastern corner of the condominium property not be disturbed by any private development.

As part of the Hunt Club Road Extension, the Region was required to construct a berm located on the northerly side of Hunt Club Road and westerly of Mr. Gaffney's gas bar. To facilitate the construction of the berm the Region required a triangular parcel of land from Mr. Gaffney.

This parcel is described as Part 1 on Reference Plan 4R-11117. As part of negotiations, Mr. Gaffney has agreed to convey these lands to the Region for \$1.00 and has also agreed to the above conditions by the Condominium Corporation.

The lands which are considered surplus to Regional requirements are:

- Former Road Allowance between Lots 30 and 31 - Parts 2 and 3 on Reference Plan 4R-11117
- Former Knoxdale Road: -- Parts 1 to 9 on Reference Plan 4R- 11190

The value of the lands which form those parts of Knoxdale Road to be closed was estimated based on their contributory value to the adjacent properties. Part 5 on 4R-11190 is encumbered with a utility easement and Parts 4, 6 and 7, being severed by the encumbered Part 5, provide minimal contributory value to the Condominium Corporation. Parts 2 and 3 on Plan 4R-11117, which are located to the south of the gas bar, have value only in contribution to Mr. Gaffney's property. It is considered that Parts 2 and 3 on Plan 4R-11117 can be off set against the land to be conveyed to the Region, being Part 1 on Plan 4R-11117. Both parcels are encumbered by the berm constructed by the Region.

The Condominium Corporation, subject to its conditions, is in agreement with the conveyance of Parts 4, 5, 6, 7, and 8 on Plan 4R-11190 to Mr. Gaffney. Parts 4, 5, and 6, have limited value due to the utility easement over Part 5 and the encumbrances affecting Parts 4 and 6. Parts 7 and 8 provide contributory value to the Gaffney lands located to the south in the nature of replacing the access to Mr. Gaffney's lands which would be eliminated when Knoxdale Road is closed. Any value in contribution associated with these lands would be more than offset by damages sustained by Mr. Gaffney's property plus business loss should access to the site be eliminated from Knoxdale Road and restricted only to Greenbank Road. The gas bar could not continue to function if Knoxdale Road was closed, thereby leaving the only access to the site being from Greenbank Road. It is considered that the value of the lands, which are proposed to be conveyed to Mr. Gaffney, namely Parts 4, 5, 6, 7, and 8 on Plan 4R-11190 is more than offset by the potential loss in value that could be sustained by Mr. Gaffney's property and business should the site be reduced to only one inadequate entrance from Greenbank Road. Parts 2 and 3 on Plan 4R-11117 (RMO) are considered to be a trade-off for Part 1 on Plan 4R-11117 (Gaffney), both being partially encumbered by the berm.

The agreement reached with Mr. Gaffney includes a waiver or covenant that states "in consideration of the lands being exchanged, the vendor shall fully release the purchaser from any claims resulting in the acquisition of Part 1 on Plan 4R-11117 and from any claim with respect to the closing of Knoxdale Road; the construction of Hunt Club Road; and the reconstruction of Greenbank Road". It is considered that the land exchange proposed herein is fair and reasonable when considering the waiver agreed to by Mr. Gaffney referred to above. (Note: the Greenbank Road entrance is insufficient to allow for delivery of fuel by tanker, which is mandatory for the operation of a gas bar.)

Parts 1, 2, 3 and 9 on 4R-11190 are encumbered by the berm and are to be retained by the Region.

The closure of Knoxdale Road is subject to the approval of the Transportation Committee and Regional Council. Approval of this report is conditional on that approval.

CONSULTATION

In accordance with existing policies, and as part of the normal road closing process, the public has been consulted, and will be provided an opportunity to be heard at the public hearing to be held by the Transportation Committee.

FINANCIAL IMPLICATION

This transaction does not represent any expenditure or recovery by the Corporation.

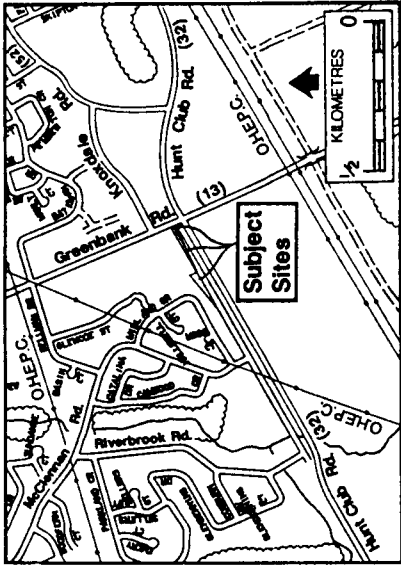
This settlement is in accordance with the Corporate acquisition policies and as such, approval is recommended.

*Approved by
Nick Tunnacliffe, MCIP, RPP*

FINANCE DEPARTMENT COMMENT

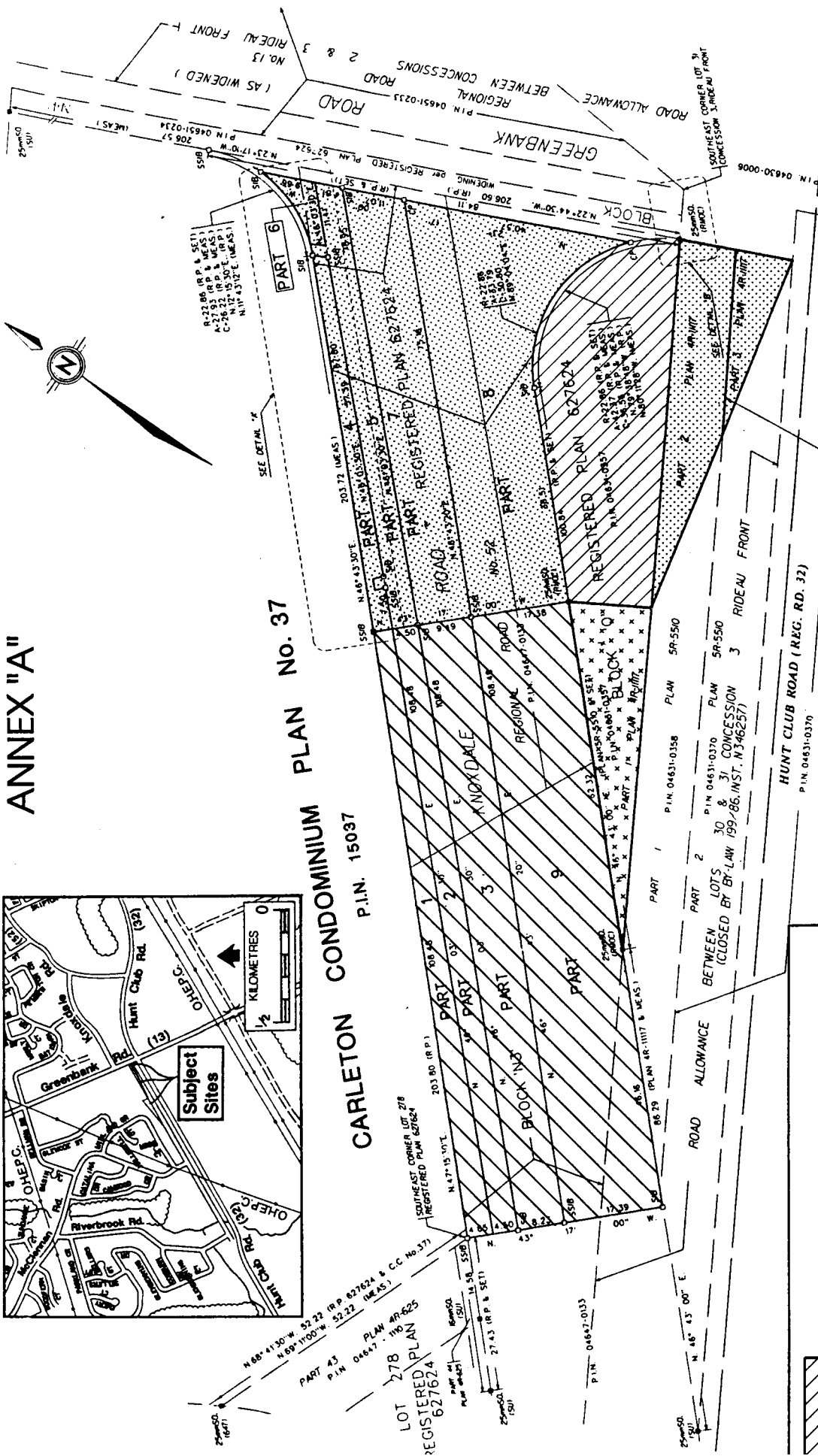
The Finance department concur with the financial implications of this report.

*Approved by T. Fedec
on behalf of the Finance Commissioner*



ANNEX "A"

CARLETON CONDOMINIUM PLAN No. 37 P.I.N. 15087



- Gaffney Lands (Gas Bar)
- Gaffney Lands to be Conveyed to R.M.O.C.
- R.M.O.C. Lands to be Conveyed to Gaffney
- R.M.O.C. Lands to be Retained

KNOXDAL ROAD CLOSING

HUNT CLUB ROAD & GREENBANK ROAD

CALE	N.T.S.	DRAWN BY	CHECKED BY	APPROVED BY
				RDAN/CU

OTTAWA-CARLETON

PLANNING AND PROPERTY DEPARTMENT