



City of
Peterborough

To: Members of the General Committee

**From: Patricia Lester,
Commissioner of Corporate and Legislative Services**

Meeting Date: May 7, 2018

**Subject: Report CLSRE18-004
Expropriation of Land at 933 Lansdowne Street West**

Purpose

A report to seek Council's approval to initiate proceedings to expropriate a portion of lands municipally known as 933 Lansdowne Street West to achieve an objective from the Byersville Harper Creek Flood Reduction Master Plan.

Recommendations

That Council approve the recommendations outlined in Report CLSRE18-004 dated May 7, 2018, of the Commissioner of Corporate and Legislative Services, as follows, that:

- a) Staff be authorized to obtain a new appraisal for the portion of 933 Lansdowne Street West required for the flood mitigation project and make a final offer to the owner prior to commencing Expropriation proceedings;
- b) Failing a resolution of Recommendation A, expropriation proceedings be commenced and the Application for Approval to Expropriate Land be made for facilitating the achievement of a flood reduction objection from the Byersville Flood Reduction Master Plan for approximately a 4.5 acre portion of the following property:
 - i. A portion of 933 Lansdowne Street West being a part of PIN 28058-0006 (LT) part of

PT LT 8 & 9 PL 17Q NORTH MONAGHAN, PTS 4, 5 & 6 45R1270,
EXCEPT PTS 1, 2, 3 & 4 45R2161; PT LT 10 & 11 PL 17Q NORTH
MONAGHAN, FIRSTLY AS IN R500570; PETERBOROUGH

- c) The City Solicitor be authorized to execute the Application for Approval to Expropriate Land and the Notice of Application for Approval to Expropriate Land, and to serve and publish the Notice as required under the **Expropriations Act**;
- d) Any valid request from an owner for an inquiry that is received be forwarded to the Chief Inquiry Officer for the appointment of an Inquiry Officer, and that the City be represented at any Hearing of Necessity, as necessary, under the **Expropriations Act**;
- e) In the event that there are inquiries (Hearings of Necessity) conducted at the request of an owner(s), the recommendation(s) of the Inquiry Officer be reported to City Council for its consideration and decision as the approving authority under the **Expropriations Act**;
- f) The City Solicitor be authorized to engage such appraisal, business valuation, survey or other professional services in connection with the expropriation as are necessary and advisable;
- g) The Initiation of Expropriation Proceedings By-law, as set out in Appendix "A" of Report CLSRE18-004, be passed; and
- h) A by-law be passed authorizing the Administrative Staff Committee to approve the acquisition of a portion of 933 Lansdowne Street West, if a settlement can be reached with any the property owner, as set out in Appendix "B" of Report CLSRE18-004.

Budget and Financial Implications

The Commissioner of Infrastructure and Planning Services has confirmed that there are sufficient funds to cover a purchase price, plus contingencies.

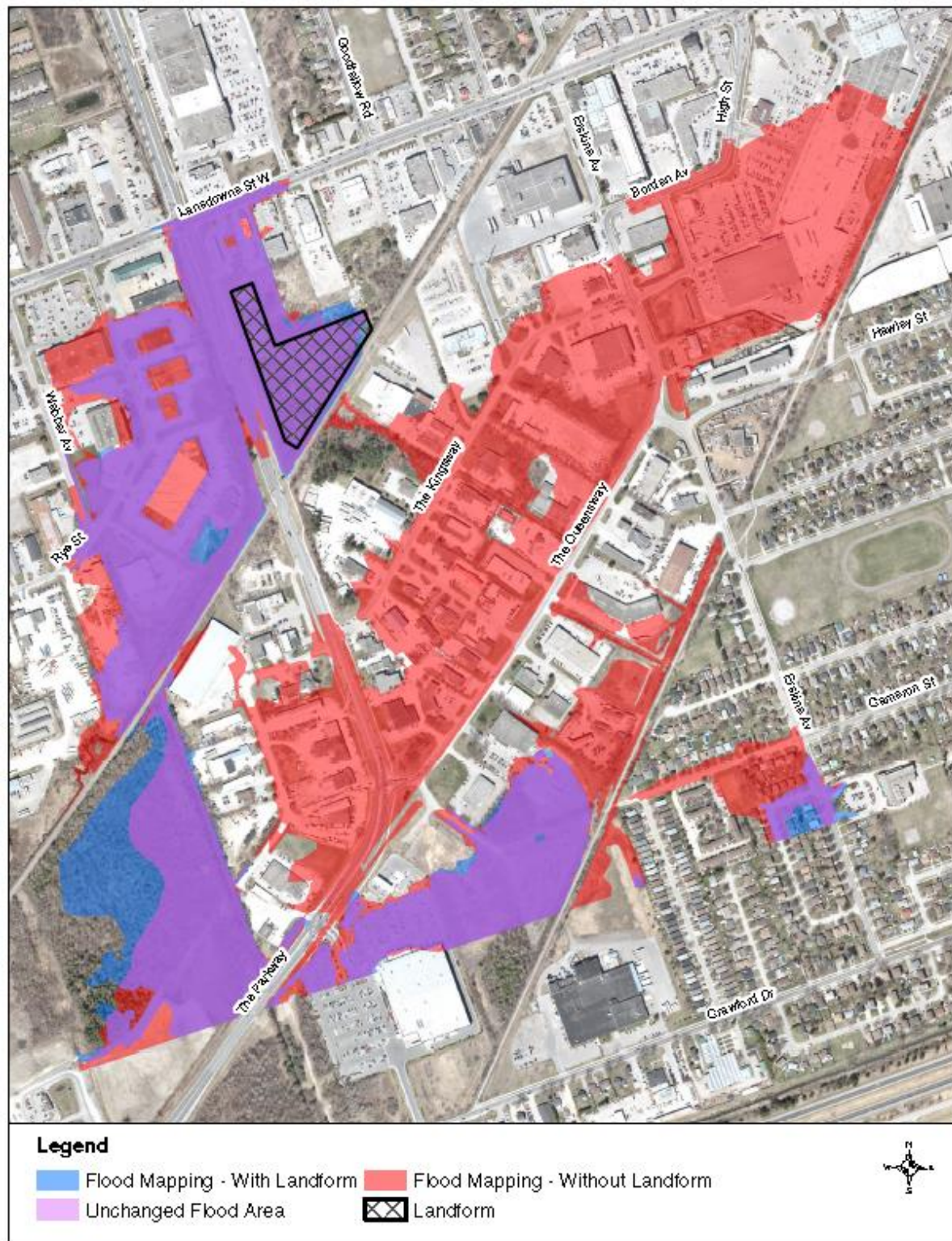
Background

A. The Byersville/Harper Creek Flood Reduction Master Plan

In 2009 the City received the Byersville/Harper Creek Flood Reduction Master Plan (the “Plan”). The Plan was commissioned to find ways to limit or avoid damage resulting from significant storm events, like the heavy rain events of 2002 and 2004. In 2004 the intersection of The Parkway and Lansdowne Street experienced significant surface flooding as did a number of other locations in that area.

The purpose of acquiring a portion of 933 Lansdowne Street West is to allow the City to construct a flood mitigation project (referred to as the “Landform” on **Figure 1**) which will protect the significant area of land shown in red on **Figure 1**.

Fig 1. Showing Changes to Flood Mapping if Flood Mitigation Project Completed at 933 Lansdowne Street West

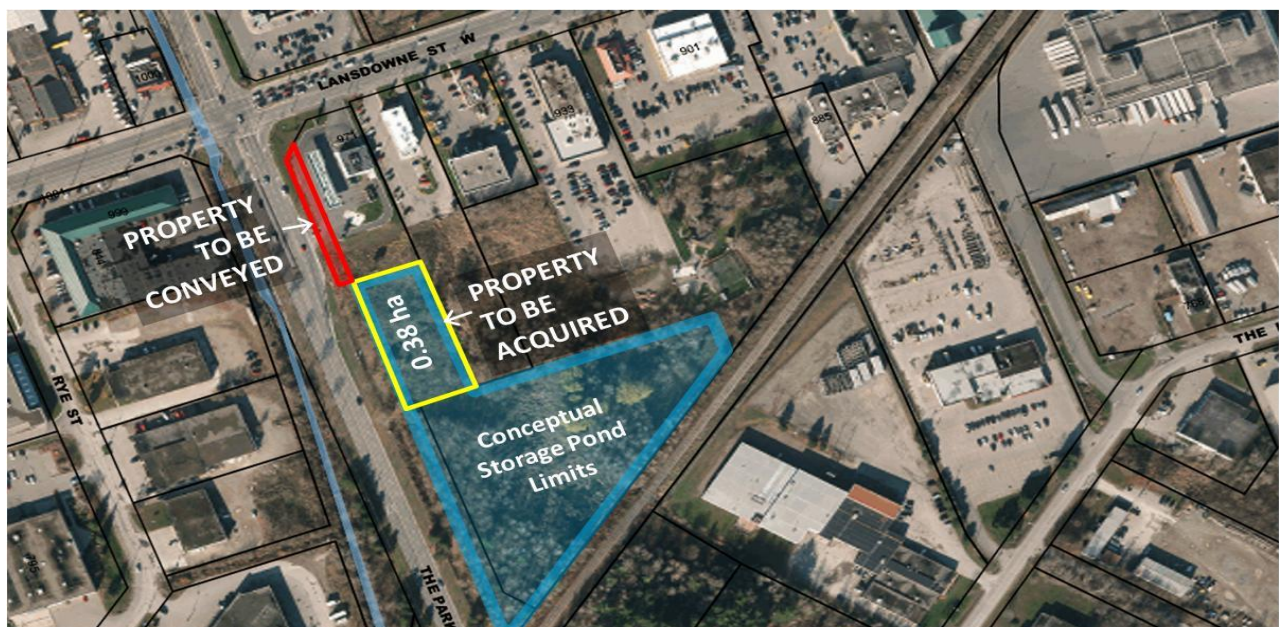


B. Current Ownership of the Land Needed for the Flood Mitigation Project

The properties known as 901 and 933 Lansdowne Street West are owned by separate corporations but are under the control of the same person. Approximately 4.5 acres of the lands comprising 933 Lansdowne Street West are required for construction of the proposed flood mitigation project.

A portion of the lands comprising 971 Lansdowne Street West are also required for the same flood mitigation project. In April 2016, as a result of Report PLPD15-027, Council authorized an exchange of land with the owner of 971 Lansdowne Street West (outlined in yellow), D.J. Mac Limited, for Part 2 on Plan 45R-14563, (outlined in red). The land required for the proposed flood mitigation project from 933 Lansdowne Street West is the triangular portion outlined in blue. Each of the foregoing is shown in **Figure 2. Figure 2** was taken from Report PLPD15-027.

Fig. 2 –Showing Conceptual Limits of Flood Mitigation Project at 933 Lansdowne Street West



**Partial Acquisition of 971 Lansdowne Street West
and Proposed Property Exchange**

C. The Expropriation Process – Delegated Authority and Next Steps

Under the **Expropriations Act**, there are two timelines in which a municipality can obtain vacant possession of lands. The quickest process is when the property owner does not request an “inquiry”, also known as a Hearing of Necessity, in front of an Inquiry Officer. If

a Hearing of Necessity is requested, this will add to the timeline and legal costs to the City. In either scenario, City Council will be required to subsequently approve the proposed expropriation, as the approving authority under the **Expropriations Act**. Once Council approves the actual expropriation, prescribed steps must be undertaken, including registering the actual expropriation plans, providing notice to the property owner and providing an offer of compensation based on revised appraisal reports.

At any time during this process the City has the opportunity and will pursue a negotiated settlement for the purchase of the property and if this can be achieved sooner than later than the overall cost to the City is reduced. Council delegating authority to the Administrative Staff Committee would allow Staff to complete the real estate transaction in a timely manner and at lower costs.

Summary

It is recommended, failing the acquisition of the required land based on the appraised value, that Council approve initiating expropriation proceedings for a portion of 933 Lansdowne Street West and authorize the City Solicitor to commence the expropriation process and execute all necessary documents and notices as required under the **Expropriations Act**. The acquisition would facilitate the City achieving an important objective in the Plan and help protect a significant area of land within the City of Peterborough from future flooding.

Submitted by,

Patricia Lester
Commissioner of Corporate and
Legislative Services

Contact Name:
Alan Barber
Acting City Solicitor
Phone: 705-742-7777, Ext. 1897
Toll Free: 1-855-738-3755, Ext 1897
Fax: 705-876-4621
E-mail: ABarber@Peterborough.ca

Attachments:
Appendix "A" – Initiation of Expropriation Proceedings By-law for a portion of 933 Lansdowne Street West
Appendix "B" – Authorization for the Administrative Staff Committee to approve the acquisition of a portion of 933 Lansdowne Street West By-law

Appendix “A” - Initiation of Expropriation Proceedings By-law for a portion of 933 Lansdowne Street West



The Corporation of the City of Peterborough

By-Law Number 18-XXX

Being a By-law to approve the Initiation of Expropriation Proceedings for a portion of 933 Lansdowne Street West.

Whereas The Corporation of the City of Peterborough (the “City of Peterborough”) requires approximately 4.5 acres of 933 Lansdowne Street West, more particularly described in Schedule “A”, to achieve a flood reduction objective from the Byersville Harper Creek Flood Reduction Master Plan;

And Whereas Section 10(1) of the **Municipal Act, 2001, S.O. 2001, c.25**, as amended (the “**Municipal Act, 2001**”) confers on the City of Peterborough jurisdiction to provide services including flood mitigation measures;

And Whereas Section 6 of the **Municipal Act, 2001** confers on the City of Peterborough the power to expropriate land;

And Whereas the Council of the City of Peterborough has by resolution passed on March 19, 2018 authorized the commencement of procedures to expropriate land;

Now Therefore The Council of The Corporation of the City of Peterborough hereby enacts as follows:

1. That Application for Approval to Expropriate Land be made by the City of Peterborough in respect of the lands described in Schedule “A” and that the Application be executed by the Acting City Solicitor and Commissioner of Corporate and Legislative Services.
2. That a Notice of Application for Approval to Expropriate Land be executed on behalf of the City of Peterborough by the Acting City Solicitor and Commissioner of Corporate and Legislative Services and that the Notice be served and published in

accordance with the **Expropriations Act, R.S.O. 1990, c. E.26**, as amended (the "**Expropriations Act**").

3. That any valid request from an owner for an inquiry be forwarded to the Chief Inquiry Officer for the appointment of an Inquiry Officer, and that the City of Peterborough be represented at any hearing of necessity, as necessary, under the **Expropriations Act**.
4. That, in the event that there is an inquiry (hearing of necessity) conducted and a recommendation of the Inquiry Officer issued, the report of the Inquiry Officer shall come before The Council of The Corporation of the City of Peterborough for consideration.

By-law read a first, second and third time this ____ day of _____, 2018.

Daryl Bennett, Mayor

John Kennedy, City Clerk

Schedule "A"

Fee Simple: All right, title and interest in the lands described as follows:

- i. A portion of 933 Lansdowne Street West being a part of
PIN 28058-0006 (LT) part of

PT LT 8 & 9 PL 17Q NORTH MONAGHAN, PTS 4, 5 & 6 45R1270,
EXCEPT PTS 1, 2, 3 & 4 45R2161; PT LT 10 & 11 PL 17Q NORTH
MONAGHAN, FIRSTLY AS IN R500570; PETERBOROUGH

Appendix "B" - Authorization for the Administrative Staff Committee to approve the acquisition of a portion of 933 Lansdowne Street West By-law



The Corporation of the City of Peterborough

By-Law Number 18-XXX

Being a By-law to authorize the Administrative Staff Committee to approve the acquisition of approximately 4.5 acres of 933 Lansdowne Street West to achieve a flood reduction objective from the Byersville Harper Creek Flood Reduction Master Plan.

Whereas The Corporation of the City of Peterborough deems it expedient to acquire the lands hereinafter described, because such lands are required to achieve a flood reduction objection from the Byersville Harper Creek Flood Reduction Master Plan;

Now Therefore, The Corporation of the City of Peterborough by the Council thereof hereby enacts as follows:

1. That a by-law be passed authorizing the Administrative Staff Committee to approve the acquisition of such portion of 933 Lansdowne Street West, as staff considers necessary to achieve a flood reduction objection from the Byersville Harper Creek Flood Reduction Master Plan
2. That the Acting City Solicitor and Commissioner of Corporate and Legislative Services be authorized and directed to execute all documentation necessary to acquire the lands set out above.

By-law read a first, second and third time this ___ day of May 2018.

Daryl Bennett, Mayor

John Kennedy, City Clerk