



DDA ACTION SUMMARY SHEET

MEETING DATE: October 15, 2024

TOPIC Update on Vacant Land Purchase _ Recommendation

BACKGROUND BRIEF:

The Board previously approved this office to extend an offer to purchase a vacant parcel of land lying adjacent to the original office building at the lumber yard, at a cost not exceed \$7,000. That offer was submitted and accepted.

A title commitment for the property (attached) shows that title is vested in the Waltman's Trust without encumbrance, which is good, but also shows that the precise location of the parcel is made difficult by the fact that the easements describing the MDOT spillway compete against the boundary measurements of the properties lying to the north of the pathway. This has resulted in an exception in the proposed title commitment that asks for a full survey of this small lot.

We have completed a full and painstakingly detailed survey and legal description of the entire purchased lumber yard property. We now have a very solid and defensible survey and legal for our owned property. This effort took nearly 9 weeks as the north boundary presented a challenge due to the varying monuments used to locate certain parcels and easements to the north. Those parcels, which are out of our control, impact the ability to pinpoint the precise north boundary of the Waltman piece. This line falls somewhere within the bike path to our north and represents the detail that title has reserved an exception.

What does this mean? We can solve this by demanding a survey, However, I strongly recommend that we shouldn't demand, or push for, a survey of the Waltman piece, instead we need to decide if the property is of sufficient value to close on the parcel description "as is".

Why do I say that? If we demand that a closing can only occur if we have a survey that is sufficient to eliminate the exception on the title commitment, we will force the opening of description analysis of multiple parcels and easements to the north, including the MDOT easements for storm water. We should let sleeping dogs lay there and rely on good legal judgment. Our use of the property is not compromised if there is ever a question of the precise location of that north boundary line.

What is my recommendation? Let's close, on the parcel description, and take title as to the conveyance, knowing that the legal description of the north boundary is unclear. The parcel allows immediate and substantial walkability for the development of the site, and while we could do this without it, it is substantially better with the parcel.

What is the risk? Well, without a survey we cannot defend the exact boundary locations. But that doesn't really hurt us as any dispute would place the nearly 20 year pathway location in jeopardy and we would have the assigned rights of the Waltmans who can claim a decades long prescriptive right to the parcel description. Without a pretty aggressive redevelopment action by the state of Michigan for the entire area, this land should sit "as is" for our lifetimes. While nothing is guaranteed, even if the most remote challenge happens, the use of the area for walkability, and the very substantial fact that even a challenge would result in only re-design, not taking or exclusion, means the risk is minimal.

The cost of undoing the northerly boundaries of the various parcels is too great, both in monetary cost and an immense risk that we open a pandora's box of time and delay (weeks for our main survey likely turns into months, and we carry our bond cost). With our main parcel set legally, taking title to this vacant lot is worth the risk, and no great things ever happen without some risk taking.

FINANCIAL IMPACT:

The board has authorized \$7000 to add this vacant parcel.

RECOMMENDED MOTION:

Move to direct and authorize the DDA Executive Director to close on the Waltman parcel, subject to title exceptions concerning the lack of a survey, at a total cost not to exceed \$7,000, as previously approved.