

The Regional Municipality of York

Committee of the Whole
Finance and Administration
January 17, 2019

Report of the Commissioner of Corporate Services

Expropriation of Land Major Mackenzie Drive, Canadian Pacific Railway Crossing to Islington Avenue City of Vaughan

1. Recommendations

1. Council approve an application for approval to expropriate a fee simple interest in the lands set out in Attachment 1.
2. The Commissioner of Corporate Services be authorized to execute the Application for Approval to Expropriate Land and the Notice of Application for Approval to Expropriate Land (the "Notice") and to serve and publish the Notice, as required under the *Expropriations Act* (the "Act").
3. The Commissioner of Corporate Services be authorized to forward to the Chief Inquiry Officer any requests for an inquiry that are received and to represent the Region, as necessary, at an inquiry (Hearing of Necessity) held under the *Act*.
4. Council, as approving authority, approve the expropriation of the lands provided there is no Hearing of Necessity requested and not withdrawn in accordance with the *Act*. Council approval is deemed to be given effective 31 days following the publication of the Notice and when a Hearing of Necessity is not requested in accordance with the *Act*.
5. Where approval to expropriate the lands is given, the Commissioner of Corporate Services be authorized to register a plan of expropriation and execute and serve any notices required under the *Act*.
6. Where approval to expropriate the lands is given, Council authorize the introduction of the necessary bylaw to give effect to these recommendations.

2. Summary

This report seeks Council approval for an application to expropriate property interests needed for the realignment, widening and reconstruction of Major Mackenzie Drive between Highway 27 and the CPR crossing in Vaughan.

This report further seeks Council approval to expropriate the lands for which no Hearing of Necessity is requested or not subsequently withdrawn by the owner, and which have not otherwise been acquired by the Region through ongoing negotiations.

Key Points

- Major Mackenzie Drive is being realigned west of Highway 27
- Most of the land required for the realignment has been previously obtained
- Additional lands have been identified through detailed design, to facilitate the realignment. The subject of this report is the proposed expropriation of these lands.

3. Background

Major Mackenzie Drive is being realigned to the west of Highway 27

The Region is undertaking improvements to Major Mackenzie Drive from approximately five hundred metres west of the CPR crossing to Islington Avenue, in the City of Vaughan, to widen the road from two to six lanes. This includes the realignment of Major Mackenzie Drive to create a more direct route between Highway 27 and the CPR crossing, as shown on the map in Attachment 2. The project includes a bridge across the Humber River and a grade separation at the CPR crossing.

The properties that are the subject of this report are privately owned lands, located east of the CPR crossing and west of Islington Avenue in Vaughan.

Council previously approved the expropriation of land for this project that included land from the subject property owner

On [May 21, 2015](#), [September 24, 2015](#) and [February 18, 2016](#), Council authorized the expropriation of privately owned properties along Major Mackenzie Drive between the CPR crossing to Islington Avenue. Property from the subject property owner was included as part of the expropriation. The Region took possession of the expropriated properties as of February 29, 2016.

Detailed design identified additional lands required for the project

Subsequent to the approval by Council to expropriate lands on the corridor, detailed design identified additional parcels of land that are required in fee simple to accommodate the roadway grading and storm sewer installation. The lands that are the subject of this report were identified as additional to the original requirement.

4. Analysis

Staff will negotiate with the property owner throughout the expropriation process

Staff has commenced discussions with the property owner to acquire the fee simple parcels to accommodate the roadway grading and storm sewer installation. These negotiations will continue throughout the expropriation process. In accordance with the Region's land acquisition policy, an independent property appraiser has been engaged to provide a market value appraisal to support negotiations.

Initiating the expropriation process will secure access to the lands to accommodate timely delivery of infrastructure

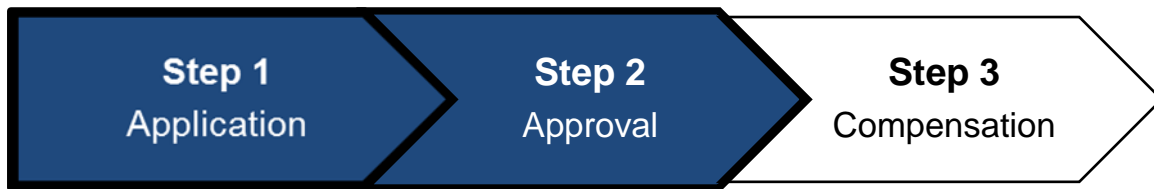
The preferred approach to obtaining land is to negotiate a transaction with the property owner. However, in many cases various events affect the timing of negotiations, such as owners who prefer to finalize negotiations at the completion of the project. In this regard, expropriation is deemed a necessary approach to ensure acquisition of lands.

Council Approval is required at three stages of the expropriation process

Approval by Council is required at three stages in the expropriation process. These include the request to Council to authorize an application for approval to expropriate the lands, the expropriation itself, and the offer of compensation made to the former owner of the lands.

In an effort to ensure possession of the lands to meet the coordinated construction schedule, the first and second steps in the Council approval process have been combined for this report, as indicated in Figure 1 below. The third step will be the subject of a future report to Council, in the event the expropriation proceeds. Possession of the lands cannot be obtained until this third step has been completed and each owner is served an offer of compensation.

Figure 1
Council Approval Steps



Owners have the right to request a Hearing of Necessity upon receipt of a Notice of Application for Approval to Expropriate

The first step in the expropriation process is to serve the registered owner with a notice of intention to expropriate, following Council approval. Upon receipt of the Notice of Application for Approval to Expropriate, the owner has the right within 30 days of receipt to request an inquiry (Hearing of Necessity) to determine whether the taking of the lands by the Region is fair, sound and reasonably necessary in achieving the objectives of the expropriating authority.

If the owner requests a Hearing of Necessity, then subsequent to the Hearing, an inquiry officer will provide a non-binding report that includes an opinion as to whether the taking is fair, sound and reasonably necessary, including an explanation for the Inquiry Officer's findings.

Registration of expropriation plans will secure ownership of the lands by the Region

If no Hearing of Necessity is requested, an expropriation plan will be registered at the Land Registry Office within three months of Council granting approval of a bylaw to proceed with the expropriation. This is the second step in the expropriation process, and registration of the plans is anticipated to be in the winter of 2019.

Registration of the expropriation plan is a key step in the expropriation process. It is at this point that the Region acquires ownership of the lands. However, further steps are required to obtain possession, or the right to access the lands.

Following registration of the expropriation plan, notice of expropriation and possession will be served on the owner. Under the *Act*, possession of the lands is to take place no sooner than three months after registration of the expropriation plans. In addition, offers of compensation must be served on the owner to obtain possession.

Environmental due diligence was completed

The Region commissioned a Phase One Environmental Site Assessment (ESA) as part of the previous expropriation process for the lands owned by the subject property owner. The Phase One ESA did not identify any significant environmental concerns in relation to the subject lands.

5. Financial

The funding required to complete the property acquisitions that are the subject of this report is included in the 2018 Capital Budget for Transportation Services, Capital Planning and Delivery. If required, the funding will be re-profiled to the 2019 Capital Budget once the budget is approved by Council.

Under section 25 of the *Act*, the Region is obligated to serve offers of compensation on owners within three months of the registration of the expropriation plan. The appraisals required to support these offers will be prepared and the proposed offers will be the subject of a further report to Council.

6. Local Impact

Once construction is complete, the widening and reconstruction of Major Mackenzie Drive will provide upgraded capacity to improve traffic operations for the travelling public and will support forecasted growth in the York Region Official Plan.

7. Conclusion

The widening and reconstruction of Major Mackenzie Drive from the Canadian Pacific Railway Crossing to Islington Avenue, in the City of Vaughan, requires the acquisition of interests in land from the subject property owner.

Negotiations with the property owner to acquire the lands are proceeding concurrently with the expropriation process, in an effort to obtain the lands by the fall of 2019. It is necessary to initiate the expropriation process to ensure timely acquisition of the required lands to meet construction timelines.

Staff will negotiate the acquisition of the required property until an expropriation plan is registered. The expropriation proceedings will be discontinued in the event negotiations are successful.

The expropriation process requires various approvals by Council. Upon approval of the recommendations of this report, staff will notify the affected property owner of the Region's intent to expropriate, and will proceed with expropriation of lands if no Hearing of Necessity is

requested. The Region will not take possession of the lands until Council approves an offer of compensation to the owner, which will be the subject of a future report to Council.

For more information on this report, please contact Michael Shatil, Director, Property Services at 1-877-464-9675 ext. 71684. Accessible formats or communication supports are available upon request.

Recommended by:

Dino Basso
Commissioner of Corporate Services

Approved for Submission:

Bruce Macgregor
Chief Administrative Officer

January 3, 2019
Attachments (2)
Private Attachments (0)
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