

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, Highway 50 to Highway 427 Interchange** **City of Vaughan**

1. Recommendations

1. Council approve an application for approval to expropriate a temporary easement interest in the land 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approving authority, approve the expropriation of the land provided there is no Hearing of Necessity requested and not withdrawn in accordance with the *Act*.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 land 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 land 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 widening and reconstruction of Major Mackenzie Drive from Highway 50 to the Highway 427 Interchange, in the City of Vaughan, as shown on the map in Attachment 2.

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Council approval to expropriate any of the land for which no Hearing of Necessity is requested or not subsequently withdrawn by the owner, and which have not otherwise been acquired by the Region through ongoing negotiations.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

- The Region is widening Major Mackenzie Drive from Highway 50 to Highway 427
- Lands from six property owners, including the subject property was previously expropriated to facilitate construction of the project
- Additional land is required from the subject property to accommodate the removal of a building that is partially located in the future right of way

3. Background

Major Mackenzie Drive is being widened between Highway 50 and the Highway 427 interchange in Vaughan

The Ministry of Transportation of Ontario (MTO) is extending Highway 427 from Highway 7 to Major Mackenzie Drive. This includes an interchange at Major Mackenzie Drive. Concurrently, the Region is undertaking improvements to Major Mackenzie Drive from Highway 50 to the Highway 427 interchange, in the City of Vaughan to widen the road from two to six lanes. The improved roadway will tie into the Highway 427 interchange and include Transit-HOV lanes and off-street cycling facilities.

The property acquisition that is the subject of this report is privately owned land located east of Highway 50 and west of the Canadian Pacific Railway crossing. The location of the property is shown in Attachment 2.

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

On [June 23, 2016](#), and [January 25, 2018](#), Council authorized expropriation of six privately owned properties along Major Mackenzie Drive east of Highway 50 and west of the Highway 427 interchange, in the City of Vaughan. Property from the subject property owner was included as part of the expropriations. The possession of the land required from the subject property was delayed until November 30, 2019 in an effort to mitigate the owner's potential claims for injurious affection and business loss due to the required demolition of the owner's service garage. The Region took possession of the five remaining properties via expropriation on February 15, 2018, to accommodate utility relocation.

Additional land is required to accommodate the demolition of the building on the property

Subsequent to Council approval to expropriate land on the corridor, it was determined that access to an additional portion of the owner's land would be required as a temporary easement to accommodate the complete removal of the building. The land that is the subject of this report was 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 temporary easement to accommodate the building demolition. 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 land 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 possession of land to facilitate the needs of a project.

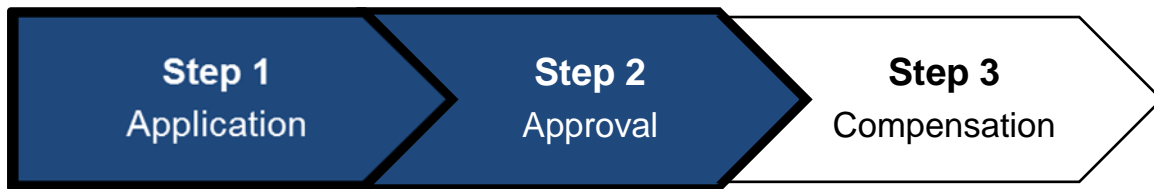
Staff will continue to negotiate agreements of purchase and sale for the required interests concurrently with the expropriation process, until an expropriation plan has been registered.

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 land, the expropriation itself, and the offer of compensation made to the former owner of the land.

In an effort to ensure possession of the land 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 land 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 land 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, and subsequent to the Hearing, the inquiry officer will provide a non-binding report that includes an opinion as to whether the taking is fair, sound and reasonably necessary.

Registration of expropriation plans will secure ownership of the land 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. Registration of the plans is anticipated to be in the Fall 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 land. However, further steps are required to obtain possession, or the right to access the land.

Following registration of the expropriation plan, notice of expropriation and possession will be served on the owner. Under the Act, possession of the land 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 testing is currently underway

As part of the process for the previous expropriation, the Region commissioned a Phase One and a Phase Two Environmental Site Assessment. The results of the soil and groundwater testing confirmed that environmental impacts are present at this site. The Region obtained a remediation plan and the estimated remediation costs were deducted from the owner's offer of compensation for the land previously expropriated.

Staff continues to work with the property owner to access the subject land to complete the required environmental work. Prior to the delivery of an offer, Property Services and Legal Services staff will review the findings of the environmental work program. Staff will take necessary steps to minimize the Region's potential exposure to environmental risk and liability and, if necessary, report to Council with recommendations.

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 registration of the expropriation plan. Appraisals required to support these offers will be prepared and 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 Highway 50 to the Highway 427 Interchange, 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 land are proceeding concurrently with the expropriation process, in an effort to obtain the land by the Fall of 2019. It is necessary to initiate the expropriation process to ensure timely acquisition of the required land to meet construction timelines.

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

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 land if no Hearing of Necessity is requested. The Region will not take possession of the land 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)
#8936551