

## Staff Report 2020-0227

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Meeting Date: July 7, 2020

Subject: 0 McLaughlin Road - expropriate or otherwise acquire lands for the construction of public roads and facilities within the Mayfield West Secondary Plan (Phase 2)

Submitted By: Alexis Alyea, Manager, Legal Services / Town Solicitor  
Sylvia Kirkwood, Chief Planner, Community Services

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### RECOMMENDATION

That the General Manager of Finance and Infrastructure Services and the Chief Planner be delegated the authority to expropriate or otherwise negotiate the acquisition of those parts of 0 McLaughlin Road, being Part of Lot 19, Concession 1 WHS (Chinguacousy), designated as Part 1 on Plan 43R-15230 as set out in Staff Report 2020-0227 that are necessary for the purposes of the public infrastructure works (the “Infrastructure Lands”);

That the Mayor and Clerk be authorized to execute an agreement with the landowners as required to secure funding for the acquisition, and if necessary, the expropriation of the Infrastructure Lands, on terms to the satisfaction of the Town Solicitor and Treasurer;

That the Mayor and Clerk be authorized to execute all documents necessary and incidental to the acquisition of the Infrastructure Lands, including retainers with any required external consultants;

That the Chief Planner be authorized to initiate expropriation proceedings if negotiations with the affected property owner are unsuccessful; and

That the Chief Planner be authorized to serve and publish Notices of Application for Approval to Expropriate the Lands, to forward to the Chief Inquiry Officer any requests for hearing that are received, to retain external consultants as necessary to attend any hearing in support of Council’s position and to report the Inquiry Officer’s recommendations back to Council for its consideration.

### REPORT HIGHLIGHTS

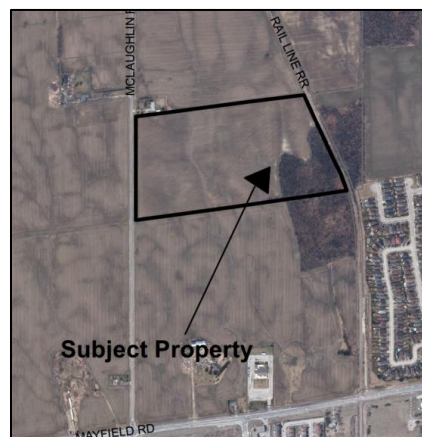
- The Mayfield West Secondary Plan (Official Plan Amendment No. 222) (the “**Secondary Plan**”) was adopted by Town Council in 2015 and approved by the former Ontario Municipal Board in 2017;
- As set out in Staff Report 2019-0284 (the “**December Report**”), Council directed staff to negotiate and if necessary, expropriate the property municipally known as 0 McLaughlin Road, legally described as being Part of Lot 19, Concession 1 WHS (Chinguacousy) Part 1 on Plan 43R-15230 (the “**Property**”);
- The Secondary Plan designates the property for a number of public uses, including road and drainage works, community centre and public school, buffer to the rail corridor, and protected lands for an existing woodland and wetland;

- The December Report also authorized staff to pursue a joint-use combined recreational facility and new public secondary school with the Peel District School Board;
- The Mayfield West Land Owner Group (the “**LOG**”) provided a letter to fund the acquisition of the Lands in their entirety. The December Report directed the Town to enter into an agreement with the LOG to set out the terms of the funding prior to initiating expropriation;
- The LOG is no longer seeking to up-front the costs of acquiring the entirety of the Property and instead is requesting that the Town initiate the acquisition and if necessary, expropriation of the lands necessary for the road and drainage infrastructure only (the “**Infrastructure Lands**”);
- Updated Council direction is required in order to scope the acquisition/ expropriation of the Property for only the Infrastructure Lands at this time;
- A scoped funding agreement with the LOG to fund the scoped acquisition/ expropriation for the Infrastructure Lands is required prior to taking steps to acquire/ expropriate the Infrastructure Lands;
- It remains in the public interest to pursue the acquisition or expropriation even in a scoped way to begin to implement the direction of the Secondary Plan and ensure the economic, social and environmental well-being of the Town.

## **DISCUSSION**

### **Background**

The Property is municipally known as 0 McLaughlin Road and is legally described as Part of Lot 19, Concession 1 WHS (Chinguacousy). The Property is located on the east side of McLaughlin Road, west of the existing railway (owned by Orangeville Railway Development Corp.) and north of Mayfield Road:



The Property is located within the Mayfield West Phase 2 Secondary Plan and designated Open Space Policy Area, Institutional, Environmental Policy Area and Medium Density Residential.

A new east-west collector road at the northern limit of the property and the existing railway on the eastern limit of the property are also identified (illustration from Official Plan Schedule “B-2”: Mayfield West Phase 2 Secondary Plan):



### **The December Report**

In Staff Report 2019-0284 (the “**December Report**”), attached as **Schedule A**, Council directed staff to initiate the acquisition of the Property for the purpose of constructing:

- The widening of McLaughlin Road from Mayfield Road to the northerly limit of the Mayfield West Phase 2 Secondary Plan as well as a new east-west collector road known as Tim Manley Avenue from Hurontario Street to Chinguacousy Road and associated easements and the establishment of a north-south servicing block for stormwater conveyance and associated easements (the “**Public Infrastructure Works**”);
- the development of an urban village square, a recreation facility and new public secondary school as a joint use project with the Peel District School Board (the “**Public Facilities**”);
- the establishment of a buffer block between the joint use facility (school) and the railway; and,
- the protection of the woodland and wetland located in the south-east corner of the Property

(together, the “**Public Uses**”).

The details regarding the Public Uses were contained in the Planning Memorandum attached to the December Report. However, as detailed design work for the Public Uses had not yet been carried out, the precise boundaries of these areas had not been finally determined.

Through both the Financial Agreement dated November 10, 2015 and a further letter confirming their agreement, the Mayfield West Phase 2, Stage 1 Landowner Group (the “**LOG**”) had committed to fund the acquisition of the entire Property to accommodate all of the Public Uses. The funding letter of commitment, dated November 26, 2019, formed the basis of the proposed acquisition strategy set out in the December Report (the “**Letter Commitment**”). The Letter Commitment was attached to the December Report.

The December Report directed the Town to enter into an agreement with the LOG to set out the terms of the funding for the acquisition/ expropriation in accordance with the Letter Commitment (the “**Funding Agreement**”), to enter into an agency agreement with the Peel District School Board to develop the Public Facilities, and to begin the negotiated acquisition and, if necessary, expropriation of the Property, including issuing a Notice of Expropriation. No Notice to Expropriate was to be issued until the Funding Agreement in accordance with the terms of the Letter Commitment was finalized and executed with the LOG.

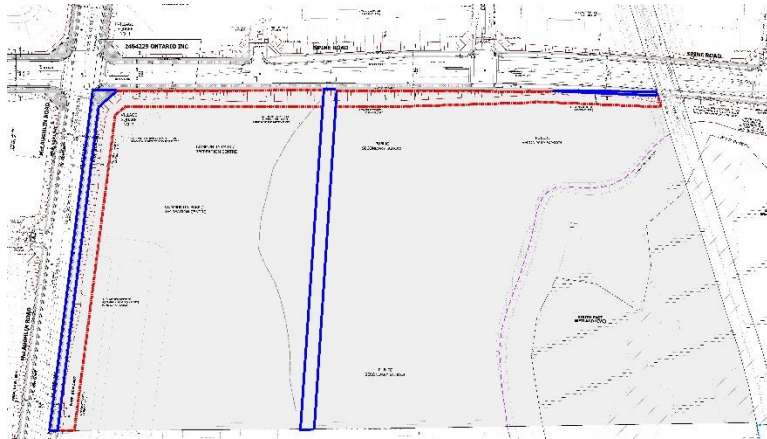
### **Scoped Expropriation**

Staff have been working with the LOG to finalize the Funding Agreement in accordance with the terms of the December Report. It has become apparent that finalizing the terms of the Funding Agreement requires more detailed design to take place regarding the Public Facilities, including boundaries of the urban village square, the recreation facility and new public secondary school as a joint use project. As a result, the Town and LOG have been unable to reach an agreement on the Funding Agreement regarding how the lands will be subdivided, transferred and how funds will be directed to the LOG to recover the costs.

Unlike the public facilities, the design work for the Public Infrastructure Works has been substantially completed, including approval received for the required Municipal Class Environmental Assessment (EA). Further, the Public Infrastructure Works have urgent timelines in order to advance the construction of widening of McLaughlin Road and the new east-west collector road (Tim Manley Avenue). This construction is required to be completed in advance of the registration of any plans of subdivision in the Secondary Plan area.

In order to expedite the construction of the Public Infrastructure Works, the LOG has requested that the acquisition/ expropriation be staged, and that the Town pursue only the lands necessary for the Public Infrastructure Works at this time. The LOG’s letter request is attached as **Schedule B**. When there is more certainty around the design for the village square and joint use facility (community centre and school), then the acquisition, funding and potential agency agreement with the School Board can be pursued at that time and a report brought to Council to authorize same.

The lands (in blue) and easements (in red) generally required for the Public Infrastructure Works (being the servicing block, McLaughlin Road widening and Tim Manley Avenue) are illustrated on the plan below (the “**Infrastructure Lands**”):



Planning staff is of the opinion that pursuing the scoped acquisition/ expropriation of the Infrastructure Lands at this time does begin the process of realizing the planned vision for the Secondary Plan and are supportive of the LOG's request.

Legal staff advise that, in the event Council wishes to scope the acquisition/ expropriation as requested by the LOG, that no steps be taken until a scoped funding agreement is entered into, setting out the terms of how the costs will be up-fronted by the LOG for the acquisition/ expropriation of the Infrastructure Lands.

### **Updated Delegated Authority**

The December Report provided authority for the General Manager of Finance and Infrastructure Services and General Manager of Community Services to negotiate with the affected property owner for the acquisition of the Property and if necessary, to initiate expropriation proceedings in order to acquire the entire Property. The December Report authorized the retention of external consultants to facilitate this process, which costs will be passed on as expropriation and land acquisition costs to the LOG.

Through this Report, staff recommend the authority delegated in the December Report be updated to scope the direction to negotiate, enter into necessary agreements, and if required, to expropriate, to only the Infrastructure Lands. Staff will continue to explore the funding, design and acquisition of the remaining lands required for public uses, with a further report to be brought to Council in the future.

To this end, upon entering into the scoped funding agreement with the LOG, staff recommend that the Town serve and publish notice of the Application for Approval to Expropriate in accordance with the requirements of the *Expropriations Act* and forward to the Chief Inquiry Officer any requests for a hearing that may be received, and attend any hearing to present the Town's position. The findings of the Chief Inquiry Officer are required to be reported back to Council for further direction. Any settlement recommended by staff will similarly be brought to Council for direction.

**Status of the Development Agreement**

The purpose of the Development Agreement is to implement the Secondary Plan policies and the 2015 Financial Services Agreement entered into with the LOG, particularly with respect to the construction and development of the Public Infrastructure Works, in accordance with the Town's standard policies and requirements. The Town and the LOG continue to negotiate Development Agreement and ancillary agreements in accordance with the terms set out in the December Report and it is anticipated the agreements will be executed shortly. No further Council authority or direction is required to achieve this objective.

**FINANCIAL IMPLICATIONS**

The LOG is obligated to pay all costs associated with acquisition of lands for the Public Infrastructure Works and those Public Facilities that will come into the Town's ownership, as set out in the Financial Services Agreement. Funding for the property acquisition is to be provided by the LOG pursuant to security required under s. 56 of the Financial Services Agreement for the Mayfield West Secondary Plan area. An agreement setting out the terms of how security is to be provided and s. 56 of the Financial Services Agreement fulfilled will be entered into with the LOG. No acquisition or expropriation will take place until the funding mechanism is secured by way of this further agreement.

**COUNCIL WORK PLAN**

**Not Applicable**

Subject matter is not relevant to the Council Workplan.

**ATTACHMENTS**

Schedule A: Staff Report 2019-0284: 0 McLaughlin Road - expropriate or otherwise acquire lands for the construction of public roads and facilities within the Mayfield West Secondary Plan (Phase 2), dated December 3, 2019

Schedule B: BLG Letter dated June 24, 2020: request on behalf of the Mayfield West Land Owner Group