

Staff Report 2019-0284

Meeting: December 3, 2019

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, Town Solicitor and Manager of Legal Services, Legal Services

RECOMMENDATIONS

That the General Manager of Finance and Infrastructure Services and General Manager of Community Services be authorized to negotiate the acquisition of 0 McLaughlin Road, being Part of Lot 19, Concession 1 WHS (Chinguacousy), designated as Part 1 on Plan 43R-15230 (the "Lands"), required to implement the direction of the Mayfield West Secondary Plan, as described in the Memorandum attached as Schedule "A" to Staff Report 2019-0284;

That the Mayor and Clerk be authorized to execute a Development Agreement and other documentation necessarily incidental with landowners within the Secondary Plan area for the development of the Public Infrastructure Works and the acquisition of the Public Facilities, on terms to the satisfaction of the Town Solicitor and General Manager of Community Services and the General Manager of Finance and Infrastructure Services;

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

The Mayor and Clerk be authorized to execute an agreement with the Peel District School Board for the joint acquisition, development and use of a combined recreational facility and new public secondary school on terms to the satisfaction of the Town Solicitor and General Manager of Community Services;

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

That the General Manager of Finance and Infrastructure Services be authorized to initiate expropriation proceedings if negotiations with the affected property owner are unsuccessful; and

That the General Manager of Finance and Infrastructure Services 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;
- The planned growth envisioned in the Secondary Plan requires the construction of the Public Infrastructure Works, the Public Facilities, the establishment of a buffer block and protection of an existing woodland and wetland;
- It is in the public interest that the Lands be acquired to implement the direction of the Secondary Plan and ensure the economic, social and environmental well-being of the Town.

DISCUSSION

The Secondary Plan was adopted by Council on November 10, 2015 and subsequently approved by the former Ontario Municipal Board on May 25, 2017. It sets out how the lands subject to the Secondary Plan are to be developed for residential and non-residential uses.

The direction of the Secondary Plan requires the construction of various works including the widening of McLaughlin Road to 1,700 m north of Mayfield Road and associated daylight triangle, the construction of a new east-west collector road from Hurontario Street to Chinguacousy Road, the establishment of a north-south servicing block for stormwater conveyance (the “Public Infrastructure Works”), the development of an urban village square, the new public secondary school and recreational facility as a joint use project with the Peel District School Board (the “Public Facilities”), the establishment of a buffer block adjacent to the existing railway, and the protection of an existing woodland and wetland; in order for the final build-out of the Secondary Plan to be achieved. These works, facilities and limits of the Lands are described in the Memorandum (the “Memorandum”) from Planning and Development – West, Community Services, attached as Schedule “A” to this Staff Report. The acquisition of the Lands implements the direction of the approved Secondary Plan.

The planned growth within the Secondary Plan area requires the timely construction of the Public Infrastructure Works, including but not limited to, a widening of McLaughlin Road from Mayfield Road northerly by approximately 1,700 metres and associated daylight triangle and easements, the construction of a new east-west collector road known as Tim Manley Avenue from Hurontario Street to Chinguacousy Road and associated easements, the establishment of a north-south servicing block for stormwater conveyance and associated easements; the development of Public Facilities including an urban village square, a recreation facility and new public secondary school as a joint use project with the Peel District School Board; 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 Lands. The required Lands were identified in the Secondary Plan on Schedule B-2 as Open Space Policy Area, Institutional and Environmental Policy Area. Schedule B-2 also identifies the south-west corner of the Lands as a medium-residential block. However, as detailed design work for the Lands has not yet been carried out, the precise boundaries of these areas has not been finally determined.

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On November 10, 2015, the Town entered into a Financial Services Agreement with the landowner group within the Secondary Plan area (the “Landowners”) which sets out the financial arrangements related to the development of the Secondary Plan, including the Public Infrastructure Works and the Public Facilities (the “Financial Services Agreement”). Pursuant to this agreement, the Landowners are required to use their commercially reasonable best efforts to acquire such portion of the Lands for the Public Infrastructure Works and some of the Public Facilities. Should their efforts fail, the Town shall use its commercially reasonable best efforts to acquire the lands, including exercising its authority under the *Expropriations Act*. The Landowners have further agreed to fund the acquisition of the Lands in their entirety, as set out in the Letter from the Landowner’s solicitors, attached hereto as Schedule B, on terms similar to the Financial Services Agreement. This commitment will be secured by a further agreement between the Town and the Landowners, to be executed prior to the acquisition of the Lands.

The Lands required are owned by a non-participating party and a non-party to the Financial Services Agreement. As required by this agreement, staff are satisfied that the Landowners have exercised their commercially reasonable best efforts to acquire the Lands. By way of background, an offer was made by the Landowners to purchase the entirety of the Lands which was rejected by the non-participating party. In order to satisfy the Town that the offer was reasonable, the Landowners obtained an appraisal report to determine the market value of the Lands. As a result of a decline in the real estate market, the appraisal report concluded that the fair market value of the Lands is substantially less than the offer to purchase provided by the Landowners. As the initial offer was rejected, staff are satisfied that there is no need for the Landowners to provide a subsequent offer consistent with the appraisal report.

As the Landowners’ attempts have been unsuccessful, authority is being requested 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 Lands and if necessary, to initiate expropriation proceedings in order to acquire the Lands. External consultants will be retained to facilitate this process, which costs will be passed on as expropriation and land acquisition costs to the Landowners.

To this end, the Town will 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.

The purpose of the Development Agreement is to implement the Secondary Plan policies and Financial Services Agreement, particularly with respect to the construction and development of the Public Infrastructure Works, in accordance with the Town’s standard policies and requirements. An agreement with the Peel District School Board is also required for the Town to act as its agent for the acquisition of a portion of the Lands for the public secondary school and recreational facility joint use project.

At this stage, authorization is sought to acquire the entirety of the Lands. As detailed design work has not been undertaken, the final boundaries of the various proposed uses

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required by the Town is unknown. Further, if the Town only expropriates portions of the Lands, a land-locked parcel of land may be created, increasing the impact on the affected landowner. As such, the Town is seeking to expropriate the Lands in their entirety. As the detailed design progresses to a stage where exact dimensions and limits are known and defined, the Town may release a portion of the Lands from expropriation.

FINANCIAL IMPLICATIONS

The Landowners are 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. The Landowners have been active participants in determining the Lands as set out in Schedule "A". Funding for the property acquisition is to be provided by the Landowners pursuant to security required under s. 56 of the Financial Services Agreement for the Mayfield West Secondary Plan area. The Landowners have agreed to further fund the acquisition of the Lands pursuant to the Letter dated November 26, 2019 which will be secured by further agreement. No acquisition or expropriation will take place until the funding mechanism is secured by way of this further agreement. Where the Town is acquiring the Public Facilities lands on behalf of the Peel District School Board, the Town will seek to enter into an agreement with the School Board to act as its agent for the acquisition.

ATTACHMENTS

Schedule A: Memorandum from Planning and Development – West, Community Services

Schedule B: Funding Letter dated November 26, 2019 executed by each landowner

Memo

Date: November 19, 2019

To: Alexis Alyea

From: Stephanie McVittie

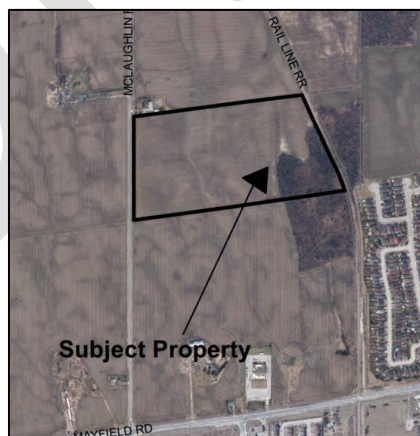
Subject: **Land Dedication Requirements for 0 McLaughlin Road
Part of Lot 19, Concession 1 WHS (Chinguacousy), designated as Part 1 on Plan 43R-15230**

The purpose of this memo is to provide background information to support expropriation of lands located at 0 McLaughlin Road, being legally described as Part of Lot 19, Concession 1 WHS (Chinguacousy), designated as Part 1 on Plan 43R-15230. Expropriation of the lands is required for the purposes of a new east-west collector road (Tim Manley Avenue), road widening of McLaughlin Road, lands for a village square, Town recreation facility and servicing connection block, a public secondary school block being acquired on behalf of the Peel District School Board and a buffer block from the railway line.

Property Information

The subject 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 approximately 17.19 ha (42.47 ac) in size with frontage of approximately 308 m (1,009 ft) on McLaughlin Road. The property is currently vacant and used for agricultural purposes.

Figure 1: Location Map



Background and Previous Council Direction

The property is located within the Mayfield West Phase 2 Secondary Plan, as illustrated on Schedule "B-2" in the Town's Official Plan. The property is designated Open Space Policy Area, Institutional, Environmental Policy Area and Medium Density Residential. The schedule also identifies a new east-west collector road at the northern limit of the property and the existing railway on the eastern limit of the property.

Figure 2: Excerpt from Official Plan, Schedule "B-2", Mayfield West Phase 2 Secondary Plan



In the Official Plan, Section 7.14, Mayfield West Phase 2 Secondary Plan, contains policies and more specific direction for the land uses and designations within the plan area. Each of these land use designations and the intended use of land for the subject property are explained in further detail below.

Future East-West Collector Road and McLaughlin Road Widening

In accordance with Section 7.14.15.2.2 of the Official Plan, the following road improvements and new road construction shall be completed prior to registration of the first plan of subdivision or approval of the first site plan application in the secondary plan:

- a) Widening of McLaughlin Road from Mayfield Road to the northerly limit of the Mayfield West Phase 2 Secondary Plan; and,
- b) Construction of the new east-west collector Town road, known as Tim Manley Avenue, which will eventually run from Chinguacousy Road east to the Highway 410/Hurontario Street interchange.

A Municipal Class Environmental Assessment (EA) for these works was completed and filed for approval at the Ministry of Conservation and Parks (MECP). The EA Study is currently being reviewed by the Minister including the Part II order request received by the MECP. Pending approval of the EA, the design identifies that approximately 0.24 ha (0.60 ac) of the subject property along McLaughlin Road is required for the widening of McLaughlin Road and associated daylight triangle, and a 170 m² (1,830 ft²) of the subject property in the north-east corner is required for the establishment of Tim Manley Boulevard.

Beyond the extent of the limit of both McLaughlin Road and Tim Manley Boulevard, the Town will also need to acquire lands or an easement for grading and construction purposes along these roads being approximately 15 m (49.2 ft) in width and an area of approximately 1.10 ha (2.72 ac).

North-South Servicing Block

As a result of detailed design engineering reviews for the proposed Tim Manley Avenue, McLaughlin Road and surrounding draft plan of subdivisions, it has been determined that a stormwater servicing block, approximately 12 m (39.4 ft) wide is required on the property. The north-south oriented stormwater servicing block is required in the general area of the boundary between the recreation facility site and the secondary school site. The block will be used to convey stormwater flows from Tim Manley Avenue south to a stormwater management pond in the A-Major subdivision (located to the south of the subject property, File No. 21T-17001C). Although the storm sewers were initially proposed to run west along Tim Manley Avenue, then south along McLaughlin Road, the proposed storm sewer location has recently been changed to be located within this servicing block, greatly reducing the cost of infrastructure.

Beyond the extent of the limit of the servicing block, the Town will also need to acquire lands or an easement for grading and construction purposes along both the east and west sides of the servicing block, with a minimum width of 2 m (6.7 ft) on each side of the block.

Urban Village Square, Open Space Policy Area

As per Section 7.14.9.4, an Urban Village Square is to be located in the north-west corner of the property at the intersection of the future east-west collector road (Tim Manley Avenue) and McLaughlin Road, within the Open Space Policy Area land use designation. The square, being approximately 0.21 ha (0.52 ac) is intended to be owned by the Town and developed to provide a central public green space and serve as a key gathering place for residents and visitors to the area.

Town Recreation Facility, Open Space Policy Area

The majority of the Open Space Policy Area designation on the site is intended for a future Town recreation facility. Section 7.14.10 of the Town's Official Plan contains policy direction for the recreation facility and identifies that the facility is to be located on lands at the south-west corner of Tim Manley Avenue and McLaughlin Road on a 5.30 ha (13.06 ac) site, with a lot size, configuration and frontage acceptable to the Town. Through the Mayfield West Phase 2 Financial Agreement (dated November 10, 2015), the unencumbered lot size required for the recreation facility was reduced to 4.85 ha (11.98 ac) in accordance with the parkland dedication requirements for the secondary plan.

Public Secondary School, Institutional

The portion of lands designated institutional are intended for a public secondary school. As per Section 7.14.8.3, the secondary school site is to be approximately 6.8 ha (16.8 ac) in size, with a lot size, configuration and frontage acceptable to the School Board. The Official Plan (7.14.18.4) provides further direction in requiring that frontage is to be on a road with a minimum of 23 m right-of-way or a minimum 10 m paved roadway.



Joint Use of the Recreation Facility and Public Secondary School

The objectives of the Secondary Plan speak to ensuring community connectivity and integration at all scales. The Town intends on developing and integrating the Urban Village Square with the future recreation facility. Furthermore, Sections 7.14.8.6 and 7.14.9.3 of the Plan indicate that school sites are encouraged to develop in conjunction with adjacent community parks and/or future recreation facilities in a campus setting to facilitate joint land use. The Town and School Board have been exploring options for joint use between the recreation facility lands and the secondary school lands.

The Mayfield Station Landowners Group Inc. has submitted facility fit plans which demonstrates how the requirements for the urban village square, recreation facility, servicing block and secondary school can be achieved on site. Based on the facility fit plans submitted to date, and in keeping with the intent of the Official Plan, the Town and School Board have reviewed the plans and have agreed to develop the lands as a joint use facility. To this end, the Town will work with the Peel District School Board to secure the lands, being 6.8 ha (16.8 ac) in size, for the school site on their behalf as part of the joint use facility to support the Town's recreation facility.

Railway Buffer Block

The north-east corner of the subject property is intended to have a buffer block from the adjacent railway line between Tim Manley Avenue and the northerly limit of the woodlot/wetland block. The buffer block is intended for both noise and safety mitigation measures between the railway and neighbouring school. As a result, the Town is looking to expropriate the buffer block with a minimum width of 15 m (49.2 ft) in keeping with the buffer block provided in the Shanontown subdivision to the north, File No.: 21T-17008C.

Environmental Policy Area

The portion of lands designated Environmental Policy Area protect the woodland and wetland located in the south-east corner of the subject property. The limits of the wetland and woodland have been staked with both the Toronto and Region Conservation Authority (TRCA) and the Ministry of Natural Resources and Forestry and are reflected in the final environmental report for the Mayfield West Phase 2, Stage 1 area. As a result of this staking, the limit of the Environmental Policy Area (as illustrated in the Official Plan), has been refined. It is intended that this portion of the subject lands be dedicated to the TRCA. These lands are not included in the proposed expropriation and are intended to be dedicated to the TRCA at a later date.

Medium-Density Residential

The south-west corner of the subject property is designated Medium Density Residential. In accordance with Section 7.14.5.3, these lands may be developed for townhouses, rear-lane townhouses, stacked townhouses and back-to-back townhouses up to four storeys in height. These lands are not included in the proposed expropriation.

Land Acquisition of the Subject Property

In accordance with the Official Plan policies noted above, and through the EA process and the detailed design work of the Mayfield West Phase 2, Stage 1 Secondary Plan and associated subdivisions, it has been determined that land is required for:



- The widening of McLaughlin Road and daylight triangle being approximately 0.24 ha (0.60 ac) in size;
- The development of the new east-west collector road, known as Tim Manley Avenue, being approximately 170 m² (1,830 ft²) in size;
- Land or an easement for grading and construction purposes along the limits of McLaughlin Road and Tim Manley Avenue being approximately 15 m (49.2 ft) in width and an area of approximately 1.10 ha (2.72 ac);
- The establishment of a north-south servicing block for stormwater conveyance being approximately 12 m (39.4 ft) wide and associated construction easements being minimum width of 2 m (6.7 ft) on each side of the block;
- The development of the urban village square, recreation facility and the public secondary school, as a joint use facility, being a minimum of 11.86 ha (29.31 ac) in size (unencumbered); and,
- A railway buffer block with a minimum width of 15 m (49.2 ft) between Tim Manley Avenue and the northern limit of the woodlot/wetland block.

Stephanie McVittie

Stephanie McVittie

Liviu Cananau
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lcananau@blg.com

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22 Adelaide Street West
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File No. 028251/000007

November 26, 2019

DELIVERED VIA EMAIL [sleisk@cassels.com]

The Corporation of the Town of Caledon
c/o Ms. Signe Leisk, Cassels Brock & Blackwell LLP
6311 Old Church Road
Caledon, Ontario L7C 1J6

Dear Ms. Leisk:

**Re: Funding Commitment by the Mayfield Station Landowners Group Inc.
PT LOT 19 CON 1 WHS CHINGUACOUSY PT 1 43R15230 T/W RO830685; CALEDON
PIN 14252-0101(LT)**

We are legal counsel for the Mayfield Station Landowners Group Inc. (the “**Landowners Group**”) with respect to the above-noted matter.

Please accept this letter, executed by the members of the Landowners Group, as agreement of the following terms regarding the proposed expropriation by The Corporation of the Town of Caledon (the “**Town**”) of the property legally described as PT LOT 19 CON 1 WHS CHINGUACOUSY PT 1 43R15230 T/W RO830685; CALEDON and designated as PIN 14252-0101(LT) (the “**Furbacher Lands**”):

1. the undersigned submit this letter on the understanding that the Town will make an Application for Approval to Expropriate the entire Furbacher Lands, serve the necessary notices, and proceed in a bona fide matter with the expropriation (the “**Expropriation**”);
2. the Landowners Group will indemnify (the “**Expropriation Funding**”) the Town for expropriation compensation determined to be payable and such reasonable third party legal/consulting costs incurred by the Town as part of the Expropriation of the Furbacher Lands;
3. Unless otherwise provided by the parties, the terms of the Financial Agreement between the Landowners Group and the Town for the Mayfield West development dated November 10, 2015 apply to the Expropriation, as reasonably necessary;
4. the Expropriation Funding is subject to the parties entering into an agreement, to the satisfaction of the Landowners Group and the Town, regarding the timing, processes, procedures, protocols, and decision-making applicable to the Expropriation (the “**Protocol**”);
5. the Town shall not serve Notice of Application for Approval to Expropriate until the Protocol is executed; and

6. this letter may be executed in any number of counterparts and by different parties in separate counterparts and each of such counterparts shall be deemed to be an original document and such counterparts, taken together, shall constitute one and the same document.

The Landowners Group's execution page follows.

Yours truly,

BORDEN LADNER GERVAIS LLP

A handwritten signature in black ink, appearing to read 'Liviu Cananau', is written over a faint, circular, dotted background.

Liviu Cananau
LC:sf

MAYFIELD STATION LANDOWNERS GROUP INC.

MAYFIELD DEVELOPMENTS INC.

Per: 
Name: John P. Angelo
Title: ASO

Per: _____
Name: _____
Title: _____

I/We have authority to bind the entity.


**MAYFIELD MCLAUGHLIN
DEVELOPMENTS INC.**

Per: 
Name: _____
Title: _____

Per: _____
Name: _____
Title: _____

I/We have authority to bind the entity.

CALEDON WEST 25 INC.

Per: 
Name: _____
Title: _____

Per: _____
Name: _____
Title: _____

I/We have authority to bind the entity.


**MAYFIELD STATION
DEVELOPMENTS INC.**

Per: 
Name: _____
Title: _____

Per: _____
Name: _____
Title: _____

I/We have authority to bind the entity.

CALEDON TERRA INVESTMENTS INC.

Per: 
Name: SILVIO GUCLIETTI
Title: ASO

Per: _____
Name: _____
Title: _____

I/We have authority to bind the entity.


**CALEDON DEVELOPMENT GENERAL
PARTNER LTD. IN ITS CAPACITY AS
THE SOLE GENERAL PARTNER OF AND
ON BEHALF OF CALEDON DEVELOPMENT
LP**

Per: 
Name: NICKCORTELLUCCI
Title: A.S.O.

Per: _____
Name: _____
Title: _____

I/We have authority to bind the entity.

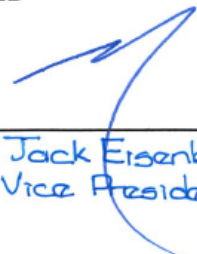
LORMEL JOINT VENTURE INC.

Per: 
Name: SILVIO GUCLIETTI
Title: ASO

Per: _____
Name: _____
Title: _____

I/We have authority to bind the entity.

**CALEDON 410 DEVELOPMENTS
LIMITED**

Per: 
Name: Jack Eisenberger
Title: Vice President

Per: _____
Name: _____
Title: _____

I/We have authority to bind the entity.