Committee Report 2019-0222

Meeting: October 22, 2019

Subject: 2596 Mayfield Road - authority to negotiate and if necessary, to expropriate lands required for the construction of a future Collector Road

Submitted By: Alexis Alyea, Town Solicitor and Manager of Legal Services, Legal Services, Corporate Services

RECOMMENDATIONS

That the Mayor and Clerk be authorized to execute a Joint Municipal Project Reimbursement Agreement with the Region of Peel to permit the Region of Peel to act on behalf of and as agent for the Town of Caledon in respect of negotiating and if necessary, expropriating the lands generally identified in the Memorandum attached as Schedule A, being that portion of the lands municipally known as 2596 Mayfield Road as required for the construction of a future Collector Road and abutting public infrastructure (the “Lands”), on terms to the satisfaction of the Town Solicitor;

That Town staff and the Region of Peel, as agent, be authorized to take all steps necessary to negotiate the acquisition of the Lands as required;

That Town staff and the Region of Peel, as agent, be authorized to initiate expropriation proceedings if negotiations with the affected property owner is unsuccessful;

That Town staff and the Region of Peel, acting as agent, 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 attend any hearing in order to present the Town’s position and to report the Inquiry Officer’s recommendations back to Town Council for its consideration, and to generally take all steps necessary to facilitate the acquisition of the Lands;

That the Mayor and Clerk be authorized to execute a Funding Agreement with landowners within the Secondary Plan area generally in accordance with Schedule B to this Report, for recovery of all of the land and administrative costs of the acquisition of the Lands on terms to the satisfaction of the General Manager of Community Services, in order to implement the terms of the Commitment Letter attached at Schedule B;

That the Mayor and Clerk be authorized to execute all documents necessary and incidental to potential terms of settlement to acquire the Lands to the satisfaction of the General Manager of Community Services.

REPORT HIGHLIGHTS

- The Region of Peel is moving forward with negotiating the acquisition of various properties to facilitate the road widening of Mayfield Road. One of the properties, located at 2596 Mayfield Road, is also required by the Town of Caledon to form part of a future Collector Road opposite of Van Kirk Drive in Brampton in
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accordance with Town’s Transportation Master Plan for the community, as well as abutting stormwater management pond (the “Lands”).

- It is most cost effective and efficient if the negotiation and, if necessary, expropriation of the Lands is coordinated by the Region of Peel as part of the widening of Mayfield Road.
- Staff are seeking Council’s authorization to permit the Region to act as agent on behalf of the Town for the negotiation and, if necessary, expropriation of the Lands, and to share in the cost of the acquisition.
- Staff are further seeking Council’s authorization to, if necessary, initiate the expropriation of the Lands, and to, if possible, enter into any necessary agreements to facilitate the negotiated acquisition of the Lands.
- As part of an Ontario Municipal Board settlement with A-Major Homes in 2017, Council approved Minutes of Settlement that did not require A-Major Homes to acquire the Lands. The MW2 Landowners Group provided a Commitment Letter to fund all costs related to the acquisition.
- Staff are seeking Council’s authorization to enter into an agreement with the MW2 Landowners Group in order to collect securities and implement the Commitment Letter.

DISCUSSION

The lands within the Mayfield West Phase 2 Secondary Plan are proposed to be developed for residential and non-residential uses, substantially as set out in OPA 222, which was adopted by Council on November 10, 2015 and subsequently approved by the former Ontario Municipal Board on May 25, 2017.

The planned growth within the Secondary Plan area requires the timely construction of a future Collector Road that would extend north from the current termination of Van Kirk Drive in Brampton, in accordance with Town’s Transportation Master Plan for the community, as well as a portion of the abutting stormwater management pond, as described in the Memorandum (the “Memorandum”) from Planning and Development – West, Community Services, attached as Schedule A (the “Lands”). The Memorandum sets out the policy framework and justification for the acquisition of the Lands.

The Region of Peel is moving forward with the widening of Mayfield Road and has approached the Town to act as agent for the Town in acquiring the Lands as part of their acquisition and expropriation process for the Mayfield Road widening. This joint approach would result in all lands necessary for both regional and local public infrastructure to be acquired concurrently, instead of in a piecemeal fashion by each public authority. It is anticipated this approach will be more cost effective and efficient, both in terms of time and cost, by allowing the Town to utilize the Region’s acquisition process and expertise.

The terms of the agency relationship and acquisition cost sharing would be set out in a Joint Municipal Project Reimbursement Agreement. The Town and the Region would share equally in the administrative costs relating to the expropriation of the Lands (for example, survey costs, appraisal costs, legal and consultant fees), while the Town would be responsible for its proportionate share of the land value of the lands it is acquiring. The estimated proportionate share of the property to be acquired by the Town is 62%, which will be used for the future Collector Road as well as abutting stormwater
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management pond, while the remainder of the lands would be acquired by the Region as part of the Mayfield Road widening. The final proportionate shares will be determined though a survey.

As part of an Ontario Municipal Board settlement with A-Major Homes in 2017, Council approved Minutes of Settlement that did not require A-Major Homes to acquire the Lands. The MW2 Landowners Group provided a Commitment Letter, attached as Schedule B, to fund all costs related to the acquisition. The terms of the settlement and the Commitment Letter were authorized by Council as part of Confidential Staff Report 2017-07. The Confirmatory By-law including the public Council resolution is attached at Schedule D.

The MW2 Landowner Group committed to “pay for all costs related to the expropriation of” the Lands, and contemplated a portion of the lands to be required for the future Collector Road, with the residual lands (less the required Mayfield Road widening) to be added to Stormwater Management Pond, as set out in the Mayfield West Secondary Plan. In order to implement this funding commitment, staff recommend and are seeking authorization to enter into a Funding Agreement with the MW2 Landowners Group, so that securities may be collected from the MW2 Landowner Group, which can be drawn on to pay for the costs of the acquisition, and if necessary, the expropriation of the Lands.

FINANCIAL IMPLICATIONS

The Landowners are obligated to pay all costs associated with acquisition of the Lands pursuant to the Commitment Letter. Funding for the property acquisition is contemplated to be provided by the Landowners pursuant to security required under a Funding Agreement based on the Commitment Letter. Through the MW2 funding agreement a mechanism exists for the landowners to be provided Development Charge (DC) credits for eligible costs related to the Collector Road E since this road was included in the Town’s 2019 DC background study and By-law as a growth road.

ATTACHMENTS

Schedule A: Memorandum from Planning and Development – West, Community Services
Schedule B: Commitment Letter from MW2 Landowner Group
Schedule C: Draft Joint Municipal Project Reimbursement Agreement
Schedule D: Confirmatory By-law including the public Council resolution regarding Confidential Staff Report 2017-07, A-Major Homes OMB Minutes of Settlement