

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