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TOWN OF MARKHAM'S REQUEST TO CONSTRUCT LOCAL MUNICIPAL ROAD IN BOX GROVE FROM HWY. 407 TO NINTH LINE BY-PASS

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report dated May 21, 2009, from the Commissioner of Transportation Services and the Commissioner of Finance.

1. RECOMMENDATIONS

It is recommended that:

1. Regional staff be authorized to take all necessary steps to facilitate the Town of Markham's request to construct a local municipal road from Highway 407 to 9th Line By-pass as part of the subdivision process;
2. Regional staff be authorized to negotiate the terms of an agreement for the transfer and future ownership, to the Town of Markham, of the portion of lands currently owned by the Region that are required for the local municipal road, subject to the principles outlined in this report; and
3. The Regional Chair and Clerk be authorized to execute the agreement subject to the review and approval by the Legal Services Branch.

2. PURPOSE

The purpose of this report is to obtain Council's authorization to facilitate a request from the Town of Markham Council. Town of Markham Council, on May 26, 2009, approved a report advising York Region that Markham will be the owner of the local municipal road in the Box Grove community from Highway 407 to the 9th Line By-pass. The Town of Markham report also recommends that the Region of York be requested to transfer the right of way for the Box Grove Collector Road from 14th Avenue to the 9th Line By-pass to the Town of Markham.

3. BACKGROUND

Regional Council approved reports have assisted in the build out of the Box Grove Community

On June 13, 2002 the Region, the Town of Markham and the Box Grove Developer Group executed a Memorandum of Understanding (MOU) for the construction of the

Markham Bypass, now known as the Donald Cousens Parkway, around the Box Grove Community.

In June 2007, Regional staff reported to Council on the status of the Donald Cousens Parkway project. The report noted that the completed Individual Environmental Assessment recommended that the Parkway be constructed as a four lane arterial road as opposed to the two lane local road envisioned in the 2002 MOU. York Region has therefore been collecting development charges for the road works on the basis of the IEA recommendations. The Town of Markham has included the cost of property acquisition (beyond 20 m) for this project in their development charges.

In September 2007, Regional Council adopted a report that authorized Regional staff to negotiate the terms of a revised Memorandum of Understanding for the construction of the Donald Cousens Parkway Extension from Highway 407 southerly to Ninth Line /Box Grove By-pass. Subsequently, on April 4, 2008 the Box Grove Memorandum of Understanding was executed by all parties.

On May 26, 2009, a report was approved by Town of Markham Council titled “Box Grove Collector Road Highway 407 to Box Grove By-Pass” with recommendations listed in Attachment No. 1. The subject of this report by York Region staff responds to the recommendations as approved by Markham’s Council.

York Region continues to work towards approval of the Donald Cousens Parkway IEA

In the fall of 2002, York Region staff commenced working on the Individual Environmental Assessment (IEA) for the Donald Cousens Parkway that would connect at Highway 407 in the Town of Markham and continue to Morningside Avenue in Toronto. The IEA was filed for approval with the MOE in December 2005. Toronto Council took a position formally opposing the preferred alignment identified in the IEA for the proposed road link and identified an alternative alignment as their preferred alignment. The MOE published their EA Review in January 2008 which positioned the Minister of the Environment to reject the EA, pointing to the outstanding objection by Toronto and the lack of a willing proponent with the jurisdiction to build the road south of Steeles Avenue.

On October 23, 2008 Regional Council adopted Clause 2 in Report 9 of the Planning and Economic Development Committee which directed staff to proceed with an amendment to the IEA to re-examine the alternative alignments considered in the original IEA to take into consideration cross-boundary jurisdictional issues and to better reflect the needs of each municipality. A detailed work plan for the amendment to the IEA has been approved by MOE and staff are proceeding with the amendment to the IEA. Approval is anticipated sometime in 2010.

The unresolved issues with the IEA relate to the alignment of the Donald Cousens Parkway to Morningside Avenue Link west of Ninth Line and into the City of Toronto and not in the areas which are the subject of this report.

The Box Grove Community continues to build out

There have been a number of plans of subdivision that been registered as part of the Box Grove Community. These plans include 19T-03M12, 19T-05M18, 19T-04M15, 19T-04M01, 19T-03M14, 19T-08M01 and 19T-03M15 which comprise a total of 2,261 residential units and 34 ha of non-residential land (see Attachment 2). Approximately 1,941 residential units have been registered and 320 units are draft approved awaiting registration. Approximately 18.67 ha of non-residential land has been registered and 15.4 ha is awaiting registration.

4. ANALYSIS AND OPTIONS

The Town of Markham takes steps to move forward with the build out of the Box Grove Community

Regional and Town of Markham staff have discussed the status of the Region's approval of the Donald Cousens Parkway IEA. The delay in the approval and hence construction of the Donald Cousens Parkway, coupled with the slowing economy, has negatively affected the Box Grove Community as a whole by not completing this important transportation link for this community. The road was identified in the Box Grove Secondary Plan as a town arterial road to service the local transportation needs, with protection as an ultimate Regional road, subject to the outcome of the Donald Cousens Parkway to Morningside Avenue Link IEA. Accordingly, the Town of Markham has indicated that they intend to provide a local roadway that meets their requirements, until such time as the Region can proceed with the completion of the Donald Cousens Parkway to Morningside Avenue Link after approval of the IEA.

The Markham Council position represents the action required in order for the Town to move forward with providing a local roadway to service the local needs of the Box Grove Community.

The Town of Markham advised that they have the authority to proceed with the works

The Town of Markham report makes reference to the jurisdictional issues related to this section of local road. Under Section 2.9 of the Municipal Class EA, roads approved under the Planning Act must comply with the Class EA approval to the extent applicable.

As the Box Grove Collector Road from Highway 407 to the 9th Line By-pass has been approved through the Box Grove Hill and Vettese Plans of Subdivision, the developers can proceed as the constructor of the municipal road.

The Town of Markham has obtained an opinion from URS Consultant Ltd confirming compliance of Section A.2.9 of the Municipal Class EA for the construction of the Box Grove Collector Road from Highway 407 to the 9th Line By-Pass as a local road.

York Region to enter into an agreement with the Town of Markham in response to their request to proceed with the local road construction

To ensure that the Town of Markham can proceed with their request to construct a local road in the Box Grove area to address local traffic concerns, the Region must take steps to transfer the lands, or portions of land the Region secured through negotiation with landowners.

Accordingly, Regional staff has had discussions with Town staff and recommend that York Region and the Town of Markham enter into an agreement based on the following principles:

1. The Region shall transfer all the lands, or portions of land, in the Region's ownership within the right-of-way of the proposed Markham local road between Highway 407 and Ninth Line By-pass, (see Attachment 3 - the "Local Road") upon receipt of a Town of Markham Council resolution, requesting such transfer.
2. The Town of Markham shall reimburse the Region for the amount paid by the Region for securing all or part of the Local Road lands right-of-way (portions of property in excess of 20 metres, i.e. 16 metre right-of-way).
3. Upon assumption of the Local Road by the Town of Markham, the Region shall provide a reimbursement to the Town of Markham; 6 months after substantial completion of the local road and no sooner than June 1, 2011.
4. The amount of the said reimbursement outlined in principle 3, will be determined through processes that will ensure the value of the work is in accordance with the competitive bid aspects as per both the Regional/Municipal Purchasing By-laws and to the satisfaction of the Commissioner of Transportation Services before the work is started.
5. Until such time as the Town of Markham includes the cost of construction of the Local Road in its DC By-law the Region shall continue to include the cost of construction in its DC By-law.

6. The Region shall make all necessary adjustments, to ensure compliance with legislative requirements, through updates, amendments, revisions to its Capital Business Plans and DC By-law, etc. to reflect the above principles

5. FINANCIAL IMPLICATIONS

The Regional Development Charge (DC) By-law includes provision for funding the roadway as it was reasonable to do so at the time the By-law was last amended (2007) in anticipation of the IEA approval. The Town of Markham has recently completed amendments to their DC By-law and did not include this section of road in the by-law. The Town's by-law does include the cost of land and as such their report recommended reimbursing York Region for the cost of the land that is being transferred. The estimated cost of the roadworks is estimated at \$7.5M and will be confirmed by the Town as detail design nears completion. Regional staff will report back to Council updating the status of the reimbursements as work is finalized and will be based on principle 4 above.

It is common for jurisdictional changes in road authority, including uploading of local roads to the Region and, somewhat less frequently, downloading Regional roads to a local municipality. Upon exercising these jurisdictional changes, it is common practice for the transferring municipality to continue collecting DC's until such time as their DC bylaw is next amended and/or until the municipality receiving the roadway has included the costs in their DC by-law.

Therefore, York Region intends to continue collecting DC's for the Donald Cousens Parkway (for the four lane roadway) until such time that the Town of Markham either chooses to open their DC By-law up for an update or the IEA is approved and the Region proceeds with construction of the Donald Cousens Parkway.

6. LOCAL MUNICIPAL IMPACT

This local road would serve as a critical transportation link for the Box Grove Community and provides a solution to local traffic concerns within the Town of Markham. It would also minimize the amount of traffic through the Rouge Park area, provide access to both regional and provincial roadways and is in line with all the previous transportation studies that have been carried out and approved for the Box Grove area of the Town of Markham. This proposed section of roadway has been identified for numerous years as a key part of the transportation network to service the Box Grove Community.

7. CONCLUSION

The amendment to the Donald Cousens Parkway to Morningside Avenue Link IEA is proceeding and is anticipated to be approved sometime in 2010 with construction anticipated to commence thereafter. The Town of Markham has identified a need to build a local road sooner in order to facilitate the continued build out of the Box Grove Community and provide solution to local traffic concerns. The Town of Markham has indicated it is in compliance with the provisions of the MEA Municipal Class EA by way of the approvals secured through the subdivision process. The Town of Markham has requested, by way of Council, that it be the owner of this local road and that they intend to build it to serve their local needs. They have further requested that York Region transfer all lands to the Town that would be required to allow this construction to occur. York Region staff recommends proceeding with the transfer of these lands upon Council approval. Finally, York Region will continue to work through the IEA process to secure approval for the Donald Cousens Parkway IEA so that we can proceed with the road construction for Regional needs.

For more information on this report, please contact Dino Basso at Ext. 1202.

The Senior Management Group has reviewed this report.

(The three attachments referred to in this clause were included in the agenda for the June 11, 2009 meeting.)



RESOLUTION OF COUNCIL MEETING NO. 9 DATED MAY 26, 2009

REPORT NO. 38 – DEVELOPMENT SERVICES COMMITTEE

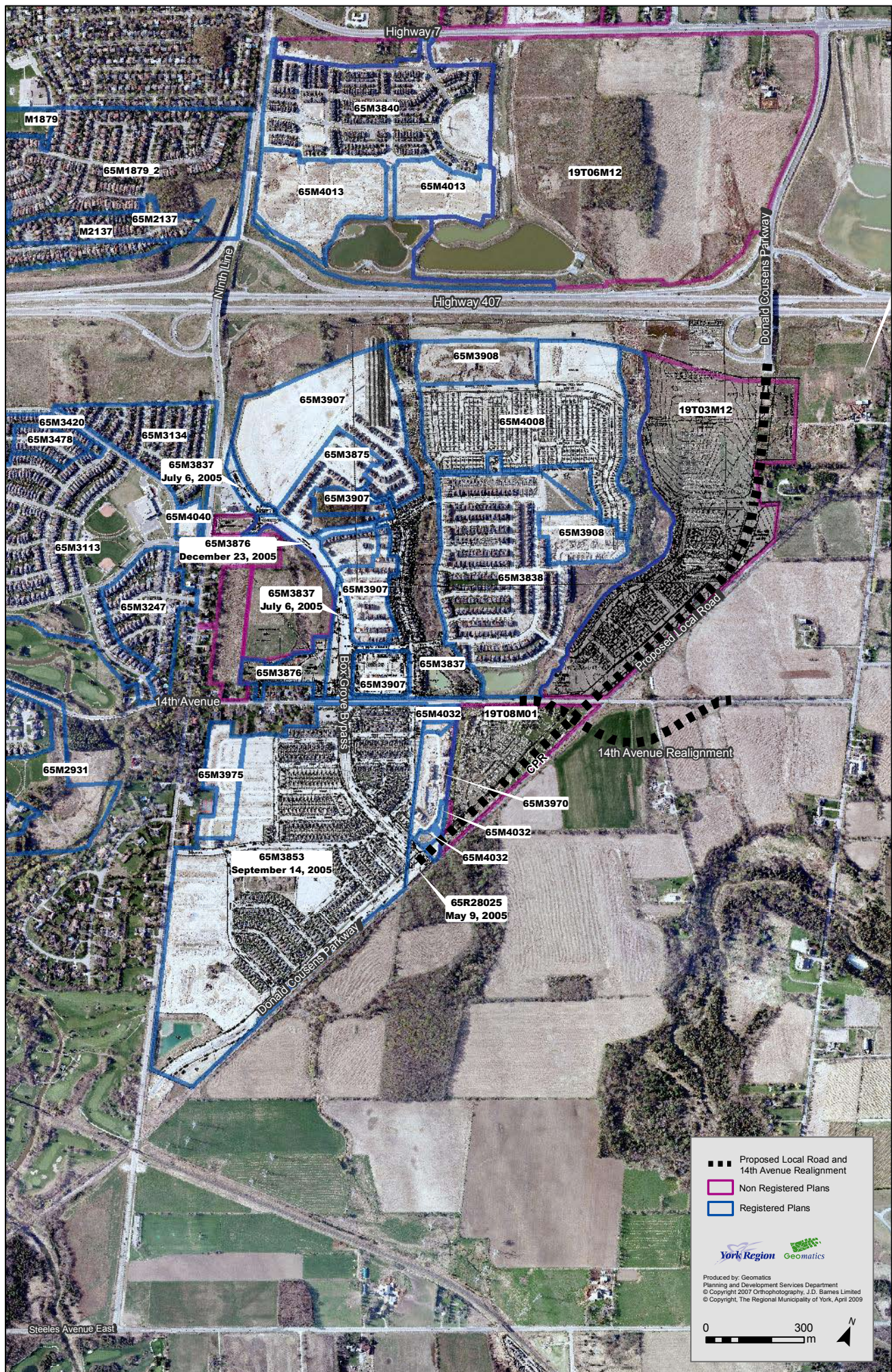
**(5) BOX GROVE COLLECTOR ROAD
HIGHWAY 407 TO BOX GROVE BY-PASS (5.10)**

- 1) That the staff report entitled “Box Grove Collector Road – Highway 407 to Box Grove By-pass”, dated May 19, 2009, be received; and,
- 2) That the construction of a municipal four lane urban collector road from Hwy 407 to the Box Grove By-pass be endorsed; and,
- 3) That the Region of York be advised that the Town of Markham will accept the ownership of the Box Grove Collector Road from Hwy 407 to the Box Grove By-pass; and,
- 4) That the Region of York be requested to transfer the 36m right of way for the Box Grove Collector Road from 14th Avenue to the Box Grove By-pass to the Town of Markham for nominal consideration for the 20m right-of-way component; and,
- 5) That the Town of Markham reimburse the Region of York for the additional 16m right-of-way property (36m vs. 20m) as part of the property negotiations with the Vettese draft plan owner, to an upset limit of \$1,473,480 from the Engineering Department Capital Account # 083-5350-7071-005 (Development Charges funded); and,
- 6) That upon future Regional Council request for the transfer of the Box Grove Collector Road from Highway 407 to the Box Grove By-pass, such right of way be re-conveyed to the Region of York for nominal consideration; and,
- 7) That the Mayor and Clerk be authorized to execute any agreements or financial arrangements with the Region of York and Box Grove Developers required to give effect to this resolution to the satisfaction of the Chief Administrative Officer, Town Solicitor and Town Treasurer; and,
- 8) That Staff be authorized and directed to do all things necessary to give effect to this resolution; and further,
- 9) That the Region of York be advised accordingly.

A handwritten signature in black ink, appearing to read 'Kimberley Kitteringham'.

Kimberley Kitteringham
Town Clerk

Copy to: Jim Baird, Commissioner of Development Services
Alan Brown, Director of Engineering
John Livey, Chief Administrative Officer
Catherine Conrad, Town Solicitor
Barb Cribbett, Treasurer
Denis Kelly, Region of York



Highway 407

