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EXPROPRIATION OF LAND DONALD COUSENS PARKWAY EXTENSION TO MORNINGSIDE AVENUE PROJECT 9870, TOWN OF MARKHAM

(Regional Council at its meeting on September 27, 2007 amended this report by deleting the reference to “Morningside Avenue” in the title of the report, so that the title of the report is now “Expropriation of Land, Donald Cousens Parkway, Project 9870, Town of Markham” and amending recommendation 1 to delete the words “to Morningside Avenue”.)

The Transportation and Works Committee recommends the adoption of the recommendations contained in the following report, August 29, 2007, from the Commissioner of Corporate Services:

1. RECOMMENDATIONS

It is recommended that:

1. Authority be granted to apply for approval to expropriate the following land required to construct the Donald Cousens Parkway extension to Morningside Avenue, in the Town of Markham, in The Regional Municipality of York, as shown on Attachment 1:
 - (a) a fee simple interest in approximately 42,000 m² (10.378 acres), being
Part of Lots 4 and 5, Concession 9, Town of Markham; and
Part of Lot 7, Concession 9, Town of Markham.
2. Authority be granted to designate the Town of Markham as the Agent in the land acquisition/expropriation, if required.
3. The Commissioner of Corporate Services be authorized to serve and publish Notice of Application as required by the *Expropriations Act*.
4. The Commissioner of Corporate Services be authorized to forward to the Chief Inquiry Officer, pursuant to the provisions of the *Expropriations Act*, any requests for hearing that may be received.
5. Regional Council, as approving authority, approve of the expropriation of the lands described in paragraph 1, provided there is no hearing of necessity.
6. The Manager of Realty Services be authorized to execute and serve any notices required by the *Expropriations Act*.

7. The lands being expropriated and required for road purposes be dedicated as a common and public highway.
8. Authority be granted for the introduction of the necessary bills in Council to give effect to the foregoing.

2. PURPOSE

The purpose of this report is:

1. To obtain Regional Council's approval to expropriate land from two owners in conjunction with the construction of Donald Cousens Parkway extension to Morningside Avenue in the Town of Markham. (*see Attachment 1*).
2. To obtain Regional Council's approval to designate the Town of Markham as the Agent in the land acquisition/expropriation since they are already well advanced in negotiations with the two affected owners.

3. BACKGROUND

The Box Grove Community MOU (tri-party agreement signed by York, Markham and the Box Grove Community participating landowners, dated June 13, 2002) provided for the construction of the Markham By-pass Link (now the Donald Cousens Parkway Extension) from the 9th Line By-pass northerly to Highway 407 as a two-lane local road, with protection for a Regional arterial road subject (at the time of the MOU) to the outcome of our Individual Environmental Assessment (IEA).

The approved Box Grove development phasing and release of servicing allocation by the Town of Markham is contingent upon construction of the Donald Cousens Parkway Extension as envisioned in the MOU.

The participating landowners have indicated strong desire to proceed with this road link in order to continue with the next phase of development. However, there are two non-participating landowners whose lands are needed for the road. The participating landowners have made attempts to acquire the necessary lands but have been unsuccessful.

The MOU provides for the Town of Markham to acquire or expropriate lands required for the Donald Cousens Parkway Extension (as a local road). The Town has approached the two non-participating landowners to acquire the required ROW but have been unsuccessful. In August 2006, Markham Council authorized staff to expropriate the required lands.

With the completion of the IEA for the Donald Cousens Parkway Extension to Morningside Avenue, the section of the road connecting Highway 407 to the 9th Line By-pass has been identified as a four-lane Regional arterial road (no longer the two-lane local road envisioned in the 2002 MOU). Given that the Region is the proponent for the IEA, the Town now believes they are not in a position to demonstrate that “the taking of the land is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority” and have asked that we expedite the land acquisition by being the expropriating authority.

Since Markham has been negotiating with the two non-participating landowners for some time, we may ask that they act as our agents in the expropriation. Commencing the expropriation process will ensure the properties required are obtained so as to not delay the projects construction schedule, however, negotiations will continue with the property owners in order to secure negotiated settlements.

The intent is to have this segment of the arterial road constructed concurrent with the adjacent development as a four-lane urbanized Regional Road. The principles and mechanism to achieve this goal would be similar to the implementation of the 9th Line By-pass completed in conjunction with the initial phases of development in Box Grove.

The participating landowners have proposed to post securities for the road until the land acquisition is complete and construction can proceed.

4. FINANCIAL IMPLICATIONS

Surveys of the properties to be expropriated have not been completed at this time. Offers of compensation must be made under Section 25 of the *Expropriations Act* to all of the owners of the listed parts on the reference plans, when available. These offers must be made within 90 days of the registration of the expropriation plans. Staff will report back to Council prior to making these offers.

5. LOCAL MUNICIPAL IMPACT

The construction of Donald Cousens Parkway extension to the Highway 407 interchange will provide an important connection to the arterial network and service development in the Box Grove area, Cornell and beyond.

6. CONCLUSION

Reference plans showing the Region's requirements are not available at this time; however, in order to ensure that the project is not delayed, it is appropriate to proceed with expropriation.

(The attachment referred to in this clause was included in the agenda for the September 5, 2007 Committee meeting.)