

Clause 14 in Report No. 9 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on May 19, 2016

14

Abandonment of Expropriated Land
Major Mackenzie Drive - Canadian Pacific Railway Crossing
to Islington Avenue, City of Vaughan

Committee of the Whole recommends adoption of the following recommendations contained in the report dated March 30, 2016 from the Commissioner of Corporate Services:

1. Subject to the former owner’s consent and in accordance with Section 41 of the *Expropriations Act* (the “Act”), Council abandon the fee simple interest and take a more limited interest in the following lands:

No.	Owner	Municipal Address	Legal Description	Interest Abandoned	Interest Required
1.	Kleindor Developments Inc.	N/A Vaughan	Parts 3, 4, Plan 65R35531	Fee Simple	Temporary Easement
<p>The temporary easement will commence on May 15, 2016 and expires on December 31, 2020, and is required for the purpose of entering on the lands with all vehicles, machinery, workmen and other material for construction purposes, which may include (1) relocation of existing services and utilities, (2) work that supports the construction of municipal infrastructure within the Region’s right of way, (3) staging and storage of materials and equipment, (4) geotech testing, including the construction of a detour borehole testing, and other investigative works, (5) removal, relocation and/or installation of signage, (6) landscaping, paving, grading and reshaping the lands to the limit of the reconstruction, (7) the installation and removal of temporary infrastructure related to the construction, and (8) works ancillary to any of the foregoing.</p>					

2. Authority be granted for the execution of the Notice of Abandonment and the Declaration of Abandonment pursuant to the *Act* and the introduction of the necessary bylaw in Council to give effect to the foregoing.

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3. The Commissioner of Corporate Services be authorized to perform all acts necessary to give effect to the foregoing.

Report dated March 30, 2016 from the Commissioner of Corporate Services now follows:

1. Recommendations

It is recommended that:

1. Subject to the former owner's consent and in accordance with Section 41 of the *Expropriations Act* (the "Act"), Council abandon the fee simple interest and take a more limited interest in the following lands:

No.	Owner	Municipal Address	Legal Description	Interest Abandoned	Interest Required
1.	Kleindor Developments Inc.	N/A Vaughan	Parts 3, 4, Plan 65R35531	Fee Simple	Temporary Easement

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2. Authority be granted for the execution of the Notice of Abandonment and the Declaration of Abandonment pursuant to the *Act* and the introduction of the necessary bylaw in Council to give effect to the foregoing.
3. The Commissioner of Corporate Services be authorized to perform all acts necessary to give effect to the foregoing.

2. Purpose

This report seeks Council approval to abandon the fee simple interest in land expropriated by the Region. Council approval is further required for a temporary easement interest to be retained by the Region on the same land. The location of the subject land is shown in Attachment 1.

3. Background

In September 2015, Council authorized the expropriation of property for the Major Mackenzie Drive project

On September 24, 2015, Council authorized the expropriation of seven properties, including a fee simple interest in the subject land for the purpose of widening and reconstructing Major Mackenzie Drive from approximately 500 metres west of the Canadian Pacific Railway (CPR) crossing to Islington Avenue, in the City of Vaughan. With the exception of the subject property, possession of the expropriated properties was obtained on February 29, 2016.

It was determined that the fee simple interest was not necessary for this land and a temporary easement would be sufficient

The fee simple interest in the subject land was originally required to accommodate the widening and reconstruction of Major Mackenzie Drive. As the design progressed, it was determined the existing right of way would suffice for the project, when completed. The subject land would only be required on a temporary basis to accommodate a detour road and grading. Therefore a temporary easement interest is sufficient for the Region's purpose.

Further, the owner confirmed the fee simple requirement would negatively impact the ability to develop the property based on a proposed subdivision plan. The expropriated owner has requested that the Region change the interest requirement from fee simple to temporary easement.

4. Analysis and Options

The expropriated owner has verbally agreed to take the lands back subject to the temporary easement

Section 41 of the *Act* requires an expropriating authority to notify the former owner of expropriated land for which the owner has not been compensated if the expropriating authority determines that it does not require the land or requires a lesser interest in the land. The owner can either agree to take the land back, or can require the expropriating authority to retain the land and compensate the owner accordingly.

The Region has not compensated the owner for the expropriated land. The owner has verbally indicated that it is willing to take back the land subject to the temporary easement.

Link to key Council-approved plans

The Major Mackenzie Drive project supports the objectives of Vision 2051, the Regional Official Plan and the 2015 to 2019 Strategic Plan. The abandonment of the expropriation is not directly related to key Council-approved plans, but is being undertaken in an effort to minimize financial obligations associated with expropriation.

5. Financial Implications

The funding required to complete the property acquisitions has been included in the 2016 Capital Budget for Transportation Services, Capital Delivery – Roads.

6. Local Municipal Impact

Once construction is complete, the widening and reconstruction of Major Mackenzie Drive will provide upgraded capacity to improve traffic operations for the travelling public and will support the accommodation of the forecasted growth within this area, as established by “Places to Grow” and reflected in the York Region Official Plan.

7. Conclusion

The expropriated fee simple interest from this property owner is not required since the Region has designed the road to fit within the existing right of way. The land required from this owner will only be needed for the duration of construction. Therefore a temporary easement will be sufficient. It is recommended the fee simple interest be abandoned, a temporary easement interest retained on the same land, and the process to transfer the lands back to the owner be initiated.

For more information on this report, please contact Michael Shatil, Director Property Services Branch at ext. 71684.

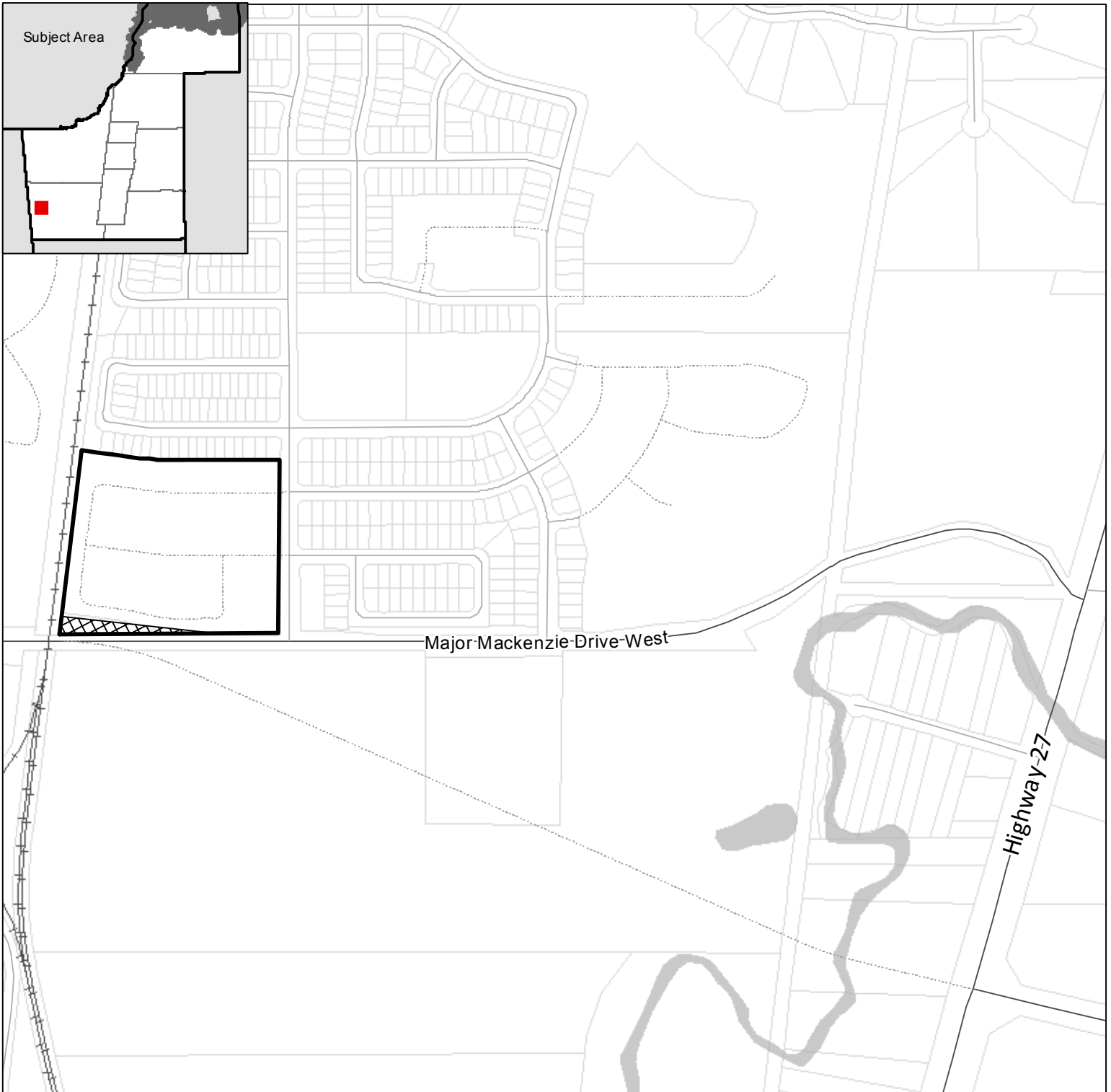
The Senior Management Group has reviewed this report.

March 30, 2016

Attachments (1)

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Accessible formats or communication supports are available upon request



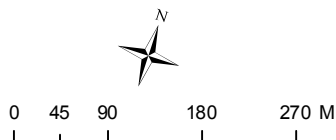
Location Plan

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
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Legend

-  Subject Property
-  Affected Interest
-  Parcel
-  Road
-  Railway