



---

Clause No. 9 in Report No. 2 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on January 22, 2015.

Approval to Expropriate  
Major Mackenzie Drive – Weston Road to Islington Avenue  
City of Vaughan

**Committee of the Whole recommends adoption of the following recommendation contained in the report dated December 19, 2014 from the Commissioner of Corporate Services:**

1. Recommendations

It is recommended that:

1. Council receive for information the Inquiry Officer's report from the Hearing of Necessity, which found the taking of the land set out in Attachment 1 to be fair, sound and reasonably necessary.
2. Council, as approving authority, consider the Inquiry Officer's report and approve the expropriation of the lands set out in Attachment 1, for the widening and reconstruction of Major Mackenzie Drive, in the City of Vaughan, on the grounds that the expropriation is fair, sound and reasonably necessary.
3. Council, as approving authority, approve the expropriation of the lands set out in Attachment 2, for the widening and reconstruction of Major Mackenzie Drive, in the City of Vaughan.
4. The Commissioner of Corporate Services be authorized to execute and serve any notices required under the *Expropriations Act* (the "Act").
5. Council authorize the introduction of the necessary bylaw to give effect to these recommendations.

## 2. Purpose

This report requests that Council consider the Inquiry Officer's report that includes the Inquiry Officer's opinion that the taking of the lands is fair, sound and reasonably necessary for the widening and reconstruction of Major Mackenzie Drive, between Weston Road and Islington Avenue, in the City of Vaughan. The Inquiry Officer's Report is provided in Attachment 3.

This report also seeks Council approval, in accordance with the *Act*, to expropriate portions of land from three properties as shown in Attachment 4.

## 3. Background

The reconstruction of Major Mackenzie Drive, between Weston Road and Islington Avenue in the City of Vaughan was approved under the Western Vaughan Individual Environmental Assessment in 2011

The Region is undertaking improvements to Major Mackenzie Drive between Weston Road and Islington Avenue, in the City of Vaughan, to facilitate urbanization and road widening from two to six lanes, including Transit-HOV lanes and off-street cycling facilities.

The widening and reconstruction of Major Mackenzie Drive from Weston Road to Islington Avenue is part of the approved Western Vaughan Individual Environmental Assessment, which was contained in Report No. 2 of the Transportation Services Committee and approved by Council on February 17, 2011.

Construction is scheduled to commence the second quarter of 2015

The lands to be considered for this report are a part of the widening and reconstruction of Major Mackenzie Drive from Weston Road to Islington Avenue project. Possession of all lands is required by April, 2015. Utility relocations have recently commenced and are expected to be completed prior to commencement of construction, which is scheduled to start in the spring of 2015.

In January 2014, Council authorized the application for approval to expropriate the land from 20 properties

On January 23, 2014, Council authorized an application for approval to expropriate interests from a total of 20 property owners. Staff acquired eight of the 20 required properties by negotiated agreements of purchase and sale. Three properties were the subject of Hearing of Necessity requests and are the subject of this report. Expropriation plans have been registered for the remaining nine properties and are being addressed in a compensation for expropriation report going to Council at the same time as this report. Staff is continuing to negotiate settlements of the properties presented to Council on September 11, 2014. It was necessary to continue with the expropriation process in order to secure ownership of the lands to accommodate utility relocations and meet the construction schedule. The construction is expected to start in June 2015. Following the Council approval, the Notice of Application for Approval to Expropriate was served on the owners.

Expropriation proceeded for nine properties and owners of three properties requested a Hearing of Necessity

Each owner had 30 days from the date the owner was served the Notice of Application for Approval to Expropriate Land to request an inquiry (Hearing of Necessity) as to whether the taking of the lands by the Region is fair, sound and reasonably necessary. Three of the owners, requested a Hearing of Necessity and one owner subsequently withdrew their request. The properties identified in Attachment 1 were the subject of the requested Hearings.

The Hearing of Necessity was held on November, 12, 2014 and the land taking was deemed to be fair, sound and reasonably necessary

A Hearing of Necessity was held on November 12, 2014. One owner, Cicchino Holdings Ltd., withdrew its request for a Hearing as staff agreed to adjust the limits of the land to be expropriated. The other two owners appeared at the Hearing.

On November 25, 2014, all parties received the Inquiry Officer's report. In the report the Inquiry Officer concluded the taking of the lands to be fair, sound and reasonably necessary.

The *Act* states that Council shall consider the Inquiry Officer's report, decide how to proceed, and serve its decision within 90 days

The Inquiry Officer's report is attached for Council's consideration in Attachment 3. The *Act* provides that Council, after considering the report, can decide to approve or not approve the proposed expropriation, or approve it with modifications. Council must serve written reasons for its decision on all parties to the Hearing of Necessity, including the Inquiry Officer, within 90 days of receipt of the Inquiry Officer's report by the Region. The deadline for the service of Council's decision is February 23, 2015.

Staff is negotiating with property owners throughout the expropriation process

The expropriation process commenced when Council approved the application for approval to expropriate. Concurrent with the expropriation, staff is negotiating with the affected owners in an effort to acquire lands via agreements of purchase and sale. It is necessary to proceed with the expropriation of all properties concurrently with ongoing negotiations in order to secure access to the lands in time for construction to commence.

#### 4. Analysis and Options

Approval to expropriate is recommended based on the Inquiry Officer's Report and the withdrawal of the hearing request from the other owner

The Inquiry Officer accepted the Region's submission in its entirety. The Inquiry Officer concluded that the taking of land at 61 Petermar Drive and 73 Petermar Drive, in the City of Vaughan, is fair, sound and reasonably necessary on the basis that the Region considered many alternatives during the environmental assessment, that the selected plan took into consideration the amount of land to be taken and the effect on existing properties and that the owners' issues concerning tree loss and erosion were addressed in the environmental assessment.

The Inquiry Officer's report, which included the Inquiry Officer's opinion, was submitted to legal counsel for both the Region and the owners. Staff has reviewed the report. It is recommended that the expropriation proceed for the

properties included in the Inquiry Officer's report and the property for which the owner withdrew his hearing request.

Approval to expropriate will secure access to the lands by April 2015 to ensure that construction can proceed

Draft expropriation plans have been prepared for the subject properties. Upon Council approval it is anticipated the plan will be registered in February 2015. Upon registration of the expropriation plan, notice of the expropriation and possession will be served upon the owners. Appraisals are anticipated to be completed in the first quarter of 2015, which will support offers of compensation to be made before possession can be taken in April 2015.

The Region can take possession a minimum of three months after service of the notice, but only after statutory offers of compensation have been made.

Negotiations are proceeding to acquire the necessary properties in order to facilitate construction scheduling

Property negotiations to acquire the necessary lands are ongoing. At the time of writing, agreements of purchase and sale have been reached for eight of the 20 properties required for this phase of the project. If an agreement of purchase and sale is negotiated with any of the three property owners referenced in this report prior to the expropriation plan being registered, that property will be removed from the list of properties to be expropriated. However, if purchase agreements cannot be reached before registration of the expropriation plan, staff will continue to negotiate compensation settlements with expropriated owners.

A future report to Council will be presented to approve the amounts of compensation to be offered to owners in accordance with the *Act*

For all expropriated properties, offers of compensation are made to property owners in accordance with section 25 of the *Act*. These offers will be based on independently commissioned appraisals, and will be presented to Council for approval in March 2015, in order that offers of compensation can be served in accordance with the *Act*, and possession can be secured in order for construction to commence.

Upon receiving Council approval of the recommendations of this report, expropriation plans will be registered. This is an imperative step in the expropriation process. The Region acquires title to the land when the expropriation plan is registered at the Land Registry Office. In accordance with

the *Act*, it is necessary to make an offer of compensation prior to securing possession of the land by April 2015. The offers of compensation will be the subject of a forthcoming report to Council. The amount of compensation is to be based on independent appraisals. Staff review appraisal reports to ensure that the opinions of the appraiser are well supported, however, the value estimates are not validated by staff in order to ensure the independence of the appraisers' estimates.

Environmental due diligence is being undertaken

The environmental due diligence reports for these properties have been reviewed by staff in consultation with Legal Services and no issues were identified.

Link to Key Council-approved Plans

From Vision to Results: 2011 to 2015 Strategic Plan

Priority Area – Continue to Deliver and Sustain Critical Infrastructure

Improve mobility for users on Regional transportation corridors

The acquisition of these lands will assist the Region in meeting its key transportation needs.

## 5. Financial Implications

As the Region will acquire title to the properties after Council approves the expropriation in 2015, the budget to complete the property acquisitions for this project has been included in the proposed 2015 Capital Budget for Transportation Services, Capital Delivery – Roads.

Under section 25 of the *Act*, the Region is obligated to serve offers of compensation on owners within three months of registration of the expropriation plan. The appraisals required to support these offers are currently being prepared and the proposed offers will be the subject of a further report to Council.

## 6. Local Municipal Impact

Once construction is complete, the widening and reconstruction of Major Mackenzie Drive, between Weston Road and Islington Avenue will provide

upgraded capacity to improve traffic operations for the travelling public and meet the expected growth in this area.

## 7. Conclusion

Staff has acquired, by either purchase agreement or expropriation, 17 of the 20 properties required for the Weston Road to Islington Avenue portion of the Major Mackenzie Drive widening project. The owners of the three remaining properties requested a Hearing of Necessity and one subsequently withdrew its request. The Inquiry Officer's report, supporting the taking of the lands, is submitted for Council consideration.

This report pertains to the approval to proceed to register expropriation plans, and serve notice of expropriation and possession upon the owners in consideration of the report provided from the Hearing of Necessity and the one withdrawal. The Region acquires title to the land when the expropriation plan is registered at the Land Registry Office. Registration is the next step toward possession of the lands required to commence construction of the widening of Major Mackenzie Drive in Vaughan.

In order to ensure timely possession of the lands to commence construction, staff recommends Council approve the expropriation of the property interests required. A report to Council will be presented in March of 2015, requesting the authority to serve property owners with offers of compensation, which will, in turn, correspond to the Region obtaining possession of the lands.

Staff will continue to negotiate the acquisition of the required properties. In cases where negotiations are successful, expropriation proceedings will be abandoned.

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

The Senior Management Group has reviewed this report.

Attachments (4)

Accessible formats or communication supports are available upon request

**Property Schedule  
Approval to Expropriate  
Major Mackenzie Drive – Weston Road to Islington Avenue  
City of Vaughan**

| No.   | Owner              | Municipal Address         | Legal Description           | Interest Required                |
|---|--------------------|---------------------------|-----------------------------|----------------------------------|
| 1.  | Gurrizan, Marina   | 61 Petermar Drive Vaughan | Part 1 and 4, Plan 65R34552 | Temporary Easement               |
|   |                    |                           | Part 2, Plan 65R34552       | Fee Simple for 0.3 metre reserve |
|   |                    |                           | Part 3, Plan 65R34552       | Fee Simple for road widening     |
| 2.  | Follegot, Giovanni | 73 Petermar Drive Vaughan | Part 19, Plan 65R34557      | Fee Simple for road widening     |
|   |                    |                           | Part 20, Plan 65R34557      | Fee Simple for 0.3 metre reserve |
|   |                    |                           | Part 21, Plan 65R34557      | Temporary Easement               |
| <p>The temporary easements will commence on March 1, 2015 and expire on December 31, 2020, and are 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, 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> |                    |                           |                             |                                  |

**Property Schedule  
Approval to Expropriate  
Major Mackenzie Drive – Weston Road to Islington Avenue  
City of Vaughan**

| <b>No.</b>  | <b>Owner</b>           | <b>Municipal Address</b>              | <b>Legal Description</b> | <b>Interest Required</b> |
|---|------------------------|---------------------------------------|--------------------------|--------------------------|
| 3.  | Cicchino Holdings Ltd. | 3812 Major Mackenzie Drive<br>Vaughan | Part 1, Plan 65R35388    | Temporary Easement       |
| <p>The temporary easements will commence on March 1, 2015 and expire on December 31, 2020, and are 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, 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> |                        |                                       |                          |                          |

**-INQUIRY HEARING-**

**APPLICATION by the Regional Municipality of York for approval to expropriate lands for the purpose of widening and reconstructing Major Mackenzie Drive from Weston Road to Islington Avenue in the City of Vaughan, Regional Municipality of York, being Project Nos. 85660/81320.**

**Regional Municipality of York's Transportation and Works Office  
90 Bales Drive East  
East Gwillimbury, ON**

**Wednesday November 12<sup>th</sup>, 2014 at 09:30am**

**IN THE MATTER OF THE EXPROPRIATIONS ACT**

**AND IN THE MATTER OF** a hearing of necessity requested by Cicchino Holding Ltd., Marina and Danny Gurrizan, and Giovanni Follegot for the proposed expropriation of lands in the Regional Municipality of York, being Project Nos. 85660/81320 involving the widening and reconstruction of Major Mackenzie Drive West from Weston Road to Islington Avenue in the City of Vaughn, Regional Municipality of York.

**WEDNESDAY NOVEMBER 12<sup>TH</sup>, 2014 AT THE HOUR OF 09:30 O’CLOCK IN THE FORENOON AT THE REGIONAL MUNICIPALITY OF YORKS MUNICIPAL TRANSPORTATION AND WORKS OFFICE AT 90 BALES DRIVE EAST, EAST GWILLIMBURY.**

**INQUIRY HEARING**

**Inquiry Officer:**

**DAVID R. VINE, Q.C.**  
638-121 Richmond St. W  
Toronto, ON, M5H 2K1  
Tel: 416-863-9341  
Fax: 416-863-9342

**Representing the Regional  
Municipality of York**

**PAUL SCARGALL**  
Reuter Scargall Bennett LLP  
Barrister & Solicitors  
250 Yonge St.  
Suite 2200  
P.O. Box 4  
Toronto, ON, M5K 1B7  
Tel: 416-869-3417  
Fax: 416-869-3411

**Representing the Regional  
Municipality of York**

**VANESSA BACHER**  
Reuter Scargall Bennett LLP  
Barrister & Solicitors  
250 Yonge St.  
Suite 2200  
P.O. Box 4  
Toronto, ON, M5K 1B7  
Tel: 416-869-2205  
Fax: 416-869-3411

**Representing Marina and Danny Gurizzan**

**NIDHI PUNYARTHI**  
**Bisceglia & Associates**  
7941 Jane Street  
Suite 200  
Concord, ON, L4K 4L6  
Tel: 905-695-1801  
Fax: 905-695-5201

**Owner**

**DANNY GURIZZAN**  
61 Petermar Drive  
Woodbridge, ON  
L4L 1A6

**Owner**

**GIOVANNI FOLLEGOT**  
73 Petermar Drive  
Woodbridge, ON  
L4L 1A6  
Tel: 905-856-5700

Domenic Presta with Bianchi Presta LLP representing Cicchino Holdings Ltd withdrew the owner's request for a hearing of necessity on October 31, 2014

### FINDING & RECOMMENDATIONS

It is recommended and I find that the taking of the land herein is fair, sound and reasonably necessary being:

Lands in the Regional Municipality of York, being Project Nos. 85660/81320 involving the widening and reconstruction of Major Mackenzie Drive, west from Weston Road to Islington Avenue in the City of Vaughn.

The Region called Mr. Anthony Reitmeier as an expert witness. Mr. Reitmeier explained that the Region's objective was to construct a six-lane road as recommended under the environmental assessment report. He said the project would include an HOV (High Occupancy Vehicle) lane in each direction, a 0.3 m multi-use path on the south side and a 1.5m sidewalk on the north side and extensive landscaping. He said the design was in anticipation of the increase in traffic that would result from the extension of highway 427 to Major Mackenzie Drive. Mr. Reitmeier said many alternatives were considered during the environmental assessment, and that the selected plan took into consideration the amount of land to be taken and the effect on existing properties.

Counsel for property owner Danny Gurizzan did not offer any evidence, but did question the witness about the viability of some of the options considered in the environment assessment. The primary concern of this owner was the destruction of an undisturbed forested area on his property which contains trees more than 40 years old and that this made the taking unfair, unsound and unreasonable.

The neighbouring land owner, Giovanni Follegot, expressed concerns about the sandy soil in the area and how well it would support the raised roadway. He feared, if not properly shored up the embankment would erode into low-lying areas on his property.

Counsel for the Regional Municipality reminded the inquiry that the concerns raised by the two owners had been considered in the environmental assessment and that the issues of erosion and tree loss were addressed.

The witness assured the owners that the Department of Forestry with the Region would oversee the protection and replacement of trees.

Both land owners were also sceptical about the need for a six-lane expansion for Major Mackenzie Road, which is currently a two-lane road.

The witness said that the municipality had always planned to expand Major Mackenzie to six-lanes, but that the plan was accelerated when the province announced that highway 427 would be extended to Major Mackenzie Road.

It is clear from the evidence called that the taking of the above-noted lands is fair, sound and reasonably necessary.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

DATE AT TORONTO THIS 21st DAY OF NOVEMBER 2014



---

David R. Vine, Q.C.  
Inquiry Officer

## PURPOSE

The purpose of this expropriation is to acquire the necessary lands for the widening and reconstruction of Major Mackenzie Drive in the City of Vaughn from Weston Road to Islington Avenue.

The Regional Municipality of York has applied for approval to expropriate:

1. Fee Simple – a fee simple interest in the lands described as Part of Lot 4, Plan 65M-2234, City of Vaughan, being more particularly identified as Parts 2 and 3 on Plan 65R-34552;

Temporary Easement – a temporary easement interest in the lands described as Part of Lot 4, Plan 65M-2234, City of Vaughan, being more particularly identified as Parts 1 and 4 on Plan 65R-34552;

2. Fee Simple – a fee simple interest in the lands described as Part of Lot 5, Plan 65M-2234, City of Vaughan, being more particularly identified as Parts 19 and 20 on Plan 65R-34557;

Temporary Easement – a temporary easement interest in the lands described as Part of Lot 5, Plan 65M2234, City of Vaughan, being more particularly identified as Part 21 on Plan 65R-34557.

**EVIDENCE CALLED BY THE REGIONAL MUNICIPALITY OF YORK**

Mr. Paul Scargall, representing the Regional Municipality of York presented those in attendance with a Brief of Documents entered as Exhibit #1. Mr. Scargall explained that Mr. Gurizzan and Mr. Follegot are neighbours and that the municipality proposes to take 4,068 square feet from Mr. Gurizzan and 8,839 square feet from Mr. Follegot. Mr. Scargall said that Major Mackenzie is currently a two-lane road and the proposed improvements are to accommodate growth. He said the taking also includes temporary use of both properties. The proposed improvements will expand Major Mackenzie to six lanes. The rationale is the terminus of the extension of highway 427 at Major Mackenzie. The current design minimizes the impact on the two properties. The proposal meets the environmental assessment requirements and meets the region's road safety standards. The design of the road was to minimize maintenance costs, provide additional lanes, provide dedicated lanes for pedestrians and cyclists and increase safety for pedestrians, cyclists and motorists.

To establish jurisdiction, Mr. Scargall cited The Notice of Grounds in the Brief of Documents, Volume 1. Mr. Scargall referred to Tab 1 in said Brief of Documents, which is the Application for Approval to Expropriate. Tab 2 is the executed Application for Approval to Expropriate Land. Schedule A of Tab 2 is the fee simple requirements. Mr. Gurizzan is parts 2 and 3. Mr. Follegot is parts 19 and 20. Schedule B sets out the temporary easement requirements. Parts 1 and 4 are Mr. Gurizzan and part 21 is Mr. Follegot. Tab 3 is the Affidavit of Service. Tab 4 contains the required newspaper notices. Tab 5 refers to a request that was withdrawn. Tab 6 is the letter sent to Mr. Gurizzan. Tab 7 is the same letter to the Follegots. Tab 7 is the Affidavit of Service regarding those. Tab 9 has been withdrawn. Tab 10 is a letter requesting hearing from Mr. Gurizzan's counsel. Tab 11 is a letter from Mr. Follegot's counsel requesting a hearing. Tab 12 is the inquiry officer's Notice of Hearing. Tab 13 is the letter of withdrawal by the third party, who is not here today. Tab 14 is the Notice of Grounds served on all parties. Tab 15

includes an aerial view of the Follegot and Gurizzan properties on Major Mackenzie Drive. Tab 16 includes a plan and aerial photograph of the Gurizzan home with an overlay with the proposed taking and grading. Tab 17 is the same display for Mr. Follegot.

#### **TESTIMONY OF ANTHONY REITMEIER**

Mr. Scargall presented Anthony Reitmeier as an expert witness, and referred to Mr. Reitmeier's resume under Tab 20, noting his degree in civil engineering and his many years of practice along with a variety of engineering jobs performed by him. The inquiry officer accepted Mr. Reitmeier as an expert in his field.

Mr. Reitmeier described his qualifications, experience and affiliations. He said the objectives of the taking were to expand Major Mackenzie from a two-lane rural roadway to a six lane roadway. Construction to begin in 2015. The two lane roadway suffers from congestion. There are now sidewalks or bike paths. The new configuration will be safer than the current configuration. The IEA study recommended the widening of the road from two to six lanes with a landscaped median, sidewalks and bike facilities. The posted speed limit is to be 60 kilometres per hour with signalized intersections, and to accommodate fully a complete drainage system. The project was initiated when the province decided to extend highway 27 to Major Mackenzie Drive. The six lane option is the preferred option.

Mr. Scargall referred to Tab 17 showing Mr. Follegot's property. Mr. Reitmeier confirmed the square footage being taken. Mr. Reitmeier said the only alternative was to put in a retaining wall system, which he said would require more maintenance and an access road and wouldn't require less property being taken. Mr. Scargall referred to Tab 19 showing an overview of the properties. Mr. Scargall asked about a planting bed on Mr. Follegot's property. Mr. Reitmeier said the municipality proposed to plant trees along Mr. Follegot's property.

Mr. Reitmeier said he recommended the region proceed with the taking as outlined in Tab 19, after considering the alternatives and reviewing the environmental assessments. He said the current design improves the road from a safety perspective and it meets the recommendations

of the Western Vaughn Transportation Improvements Individual Environmental Assessment while requiring the least amount of land from private owners.

Mr. Scargall referred to Tab 16 showing an aerial of the Gurizzan property. Mr. Reitmeier confirmed the amount of land being taken. He said the amount of land was in accord with the environmental assessment. He said the original environmental assessment called for bike lanes and pedestrian sidewalks. He said they widened the bike lane to a multi-use trail, but did not shift the northerly or southerly limits. Mr. Reitmeier said no trees are being removed from the subject properties. He said there was a development plan involving new housing on the south side of Major Mackenzie so the developer made an allowance for the road widening. He said about eleven metres was dedicated on the south side.

#### **QUESTIONING OF WITNESS BY NIDHI PUNYARTHI – COUNSEL FOR MR. GURIZZAN**

Ms. Nidhi Punyarthi, counsel for Mr. Gurizzan, referred to Tab 15, which shows a Google street-view image of her client's property on 61 Petermar Drive, being the one on the right, marked with a red dot. She said her client was primarily interested in the alternatives for the temporary takings. She asked Mr. Reitmeier about the nine alternatives and why they were rejected.

Mr. Scargall objected on the grounds that the objective of York Region is not before the inquiry, just whether the taking is. He said there is no engineering evidence to suggest that there was a mistake. There was no objection filed with respect to the environmental assessment that ran from 2005 to 2012 and was approved in July, and this inquiry is not able to reopen the environmental assessment.

The inquiry officer said that was his understanding.

Ms. Punyarthi said the inquiry is looking at whether the taking is fair, sound and reasonable and her client wants to know why there are so many trees being cut down and whether there was another alternative. She said one alternative mentioned was to put up a retaining wall, but there were nine other alternatives, and there was some deviation from the environmental

assessment as described in a document filed under Tab 22. She said she felt going through the alternatives would help decide whether the taking is fair, sound and reasonable.

Mr. Scargall said the document under Tab 22 was filed to provide the record of jurisdiction for the taking and that this inquiry is not able to review the environmental assessment. That process ended in July 2012. The nine alternatives that were reviewed were part of that process. That's not part of this process. This process is to determine whether the proposed taking that was the preferred alternative is being followed, and is fair, sound and reasonable. A review of the environmental assessment is not subject to further review. It's just not appealable.

Ms. Punyarthi said she is only questioning whether it is fair, sound and reasonable to do this and that asking for alternatives is proper for her client to submit his position to assess what is fair, sound and reasonable.

Mr. Scargall said the case law is very clear. There is no engineering evidence put forward that there is a different alternative. That analysis must happen under the environmental assessment, not the inquiry officer stage.

The inquiry officer said that was also his understanding and that he was not prepared to go into the eight or nine things they didn't do, rather the one thing they are going to do. He said what he has to decide is whether the one thing they are going to do fair, sound and reasonably necessary and so ruled.

Ms. Punyarthi asked Mr. Reitmeier to explain why the proposed extension of Major Mackenzie went from four lanes to six lanes.

Mr. Reitmeier said the intent was always that the road would eventually go to six lanes. But the decision by the province to accelerate the extension of highway 427 north to Major Mackenzie prompted the region to accelerate the thinking about expanding to six lanes. The region felt it was a better use of the taxpayers' money to go in once and expand to six lanes, rather than to build four lanes and a few years later to go in and add two more lanes.

Ms. Punyarthi asked how many lanes 427 is now.

Mr. Reitmeier said it is currently zero.

Mr. Scargall said the extension involves 427 going from highway 7 to Major Mackenzie. So, it's going from zero to...

Ms. Punyarthi asked how many lanes the 427 extension will provide.

Mr. Reitmeier said he didn't have that information.

Ms. Punyarthi said she hasn't seen any projections that show 427 will be six lanes in the subject area.

Mr. Reitmeier said currently 427 terminates at Zenway Blvd, just north of highway 7.

Ms. Punyarthi asked whether all the future interchanges along the extended 427 will be expanded to six lanes, or just Major Mackenzie.

Mr. Reitmeier said some roads will be expanded to six lanes, some to four lanes, depending on traffic needs.

Ms. Punyarthi asked whether two of the lanes are bike lanes.

Mr. Reitmeier said all six lanes are car lanes.

Ms. Punyarthi said in the discussion about the retaining wall alternative, that Mr. Reitmeier had said it would have resulted in the taking of more property from the owners.

Mr. Reitmeier said he didn't say more property, rather it would require additional property, more than what's needed just to install the wall. They would need additional property behind the wall to provide access for future maintenance and repairs and access for vehicles to access the wall.

Ms. Punyarthi asked how much additional space would be required behind the wall.

Mr. Reitmeier said there are two aspects. Firstly the wall is built into the ground, five or six feet deep. It has very wide-spread footing. To undertake that work, requires cutting the ground on a slope. That takes up almost as much grading requirement as would be required for a graded final slope. Secondly, in order to get a regional vehicle to get in behind it would require at least a three to 3.25 metre access route and a buffer. That dimension is almost equivalent to what is currently showing as a 2:1 final slope.

Mr. Follegot, the other property owner, asked if he could ask a question.

Mr. Follegot said the soil is sandy, and asked what would happen in a severe thunderstorm, would the embankment wash down into the creek, requiring continuous repairs. He said Mr. Reitmeier already said a retaining wall would need repairs, and an embankment would need similar repairs. Mr. Follegot said he'd taken pictures of the area showing there is substantial erosion already because of the soil conditions. He asked whether the region would consider a retaining wall designed to sit under the sidewalk.

Mr. Reitmeier said whenever a retaining wall is designed, the municipality always gets a geo-technical assessment and recommendations from a professional geo-technical engineer. If soil needs to be modified, better material would be brought in to stabilize the area around the wall. In terms of sloping, it would be stabilized with appropriate material to prevent erosion. However, he said the current project does not include designing a wall, but those are the considerations that would be taken into account.

Mr. Follegot said that doesn't address the current issue. He believes the road is being built on top of something that might be fragile and might fall down. And, if a wall would need so much servicing, it is a concern that those concerns are not being extended to the current road. There is no shoring up or effort to protect the area.

Mr. Reitmeier said they are putting in a pedestrian handrail along the portion where there is a larger embankment height.

Mr. Follegot said since he has to live there he doesn't want to see equipment coming back every six months to repair a slope that is crumbling, because it was built cheaply to begin with.

Mr. Scargall asked Mr. Reitmeier whether the slope is being engineered not to erode and that there will be plantings put on the slope.

Mr. Reitmeier said extra measures are being taken to prevent erosion. They plan to use special techniques, erosion control blankets in order to establish the vegetation on that slope as quickly as possible.

Ms. Punyarthi referred to Tab 14, the Notice of Grounds. She said on page 3, paragraph 4 it refers to widening "from the existing centre line of Major Mackenzie Road". She asked whether the region had decided to shift from the original centre to a bit north.

Mr. Reitmeier said the shift was minor, approximately point three metres.

Ms. Punyarthi said the environmental assessment didn't take that shift into consideration. When it says "minimize any impact on private property or natural constraints" she said that concerns these property owners directly because it affects their property and trees.

Mr. Reitmeier said despite the slight shift, the north and south limits are exactly the same. It's created a slightly larger boulevard. The 36 metre basic right-of-way has remained the same. The lines where the grade begins has not changed.

Ms. Punyarthi referred to Tab 19 and the plan to replace trees.

Mr. Reitmeier said those are just landscape drawings, part of the entire vision of the corridor, not intended to be replacements for any trees taken. Those discussions will take place as part of compensation discussions.

Ms. Punyarthi asked whether there were any other considerations taken into account by the region to minimize the impact on trees and private property.

Mr. Reitmeier said the design doesn't allow for many modifications.

Ms. Punyarthi asked whether the takings are done in such a way to minimize the impact.

Mr. Reitmeier said that was absolutely true.

Ms. Punyarthi asked about the size of the property being taken. She asked about the trees being taken out.

Mr. Reitmeier said there will be significant environmental protection for existing trees. He said they had developed tree protection strategies which are being approved by the Toronto and Region Conservation Authority. The plan is to minimize the impact on remaining trees.

Ms. Punyarthi asked how many trees had been taken down on the Gurizzan property.

Mr. Reitmeier said he didn't know.

Mr. Follegot said he didn't think trees would be taken out, but those remaining will suffer severely, because the construction is coming close to the roots which are near the surface.

Mr. Reitmeier said there won't be much excavating. It is a fill situation, rather than an excavation.

Mr. Follegot asked about the building of a sound barrier on the south side of his property. He said his bedroom is currently at street level and now the region is proposing a sound barrier on the opposite side, so the sound that is currently being absorbed by trees will be adversely affected.

Mr. Scargall said the sound barrier issues are more related to compensation discussions rather than to the taking of the lands.

Mr. Follegot said no planning was made to alleviate the sound.

Mr. Reitmeier said all those considerations were taken into account during the environmental assessment. He said the design team is willing to discuss these issues with any owners outside of this hearing.

Mr. Follegot said he was satisfied to have that opportunity.

Mr. Gurizzan said he is very concerned about the temporary easement on his property, which he says is going to jeopardize all the trees he's protected for over 20 years, which he purposely left to give his property a park-like look. He said he doesn't understand why six lanes are necessary. He doesn't understand why so much land is being taken and how he ultimately will be affected. He said he's one of the few owners who has left trees on that side of his property untouched and some of them are more than 40 years old.

Mr. Reitmeier said the Department of Forestry for the region will try to replace any trees that are removed.

Ms. Punyarthi said she had no more questions or witnesses.

The owners said they had no more questions or witnesses.

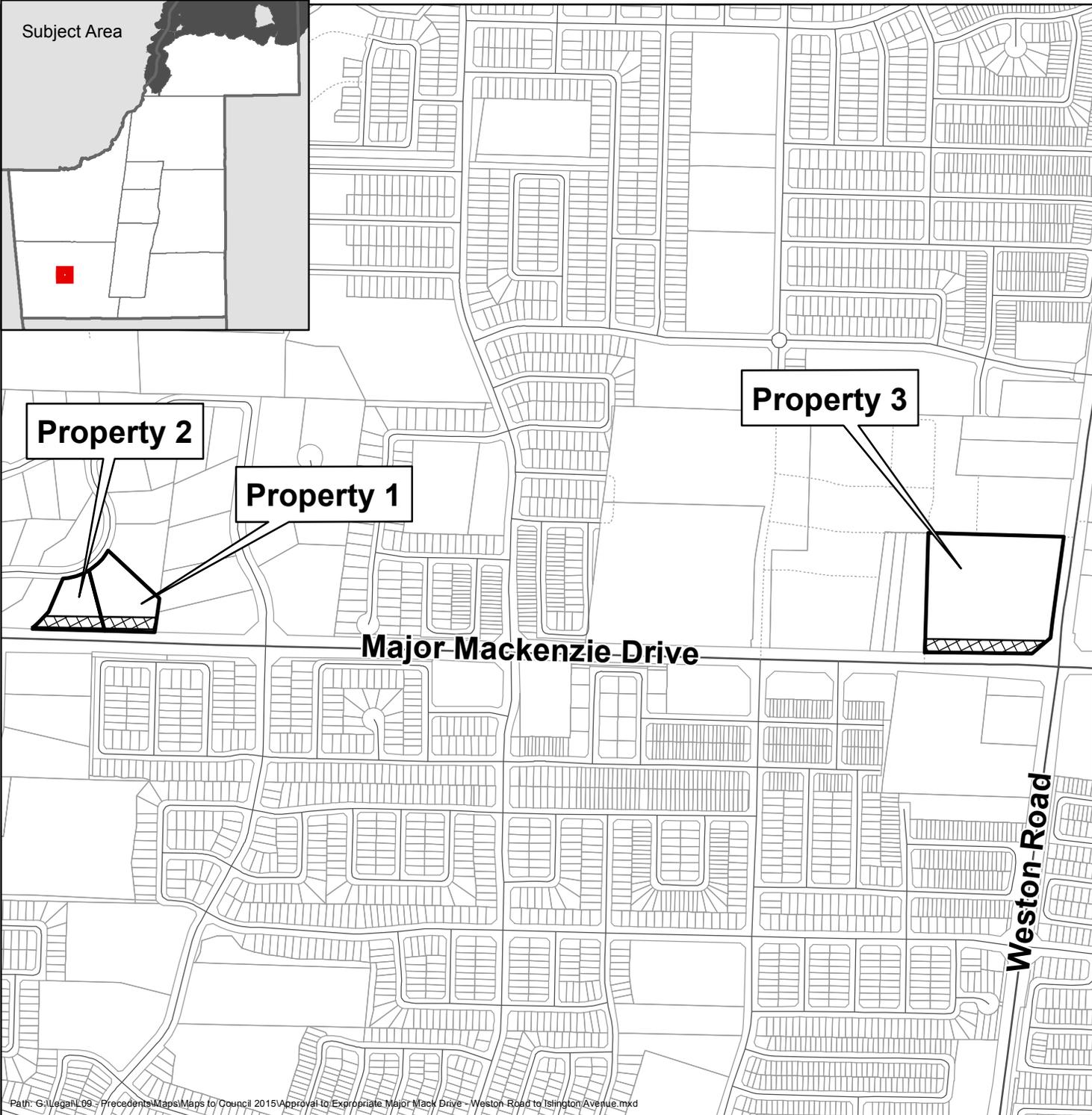
Mr. Scargall said he had no further witnesses. In his summation he said the objective of the authority was to widen Major Mackenzie Drive in accordance with the recommendations of the environmental assessment, a 36 metre right of way with six lanes. The taking proposed is as recommended in the environmental assessment in terms of location. He says the taking from the Follegot and Gurizzan properties is fair, sound and reasonably necessary in achieving that objective.

Ms. Punyarthi said the Gurizzans believe the taking is not fair, sound and reasonable in the furtherance of the objectives of the region. The reason being that the manner of the taking would cause damage to the private property and the trees on her clients' property. There are a significant number of old trees being cut and no immediate plan in place to deal with that. There is concern about erosion. There were alternatives including building a retaining wall, which was rejected. In light of the evidence put forward, the particular method of taking that is being used is not fair, sound and reasonable due to the damage being suffered on existing property. She says the plan does not exactly follow the environmental assessment. The environmental assessment did not envision cutting down so many trees and damaging the soil in this manner.

Mr. Follegot said the taking of land is both excessive and unfair, that further consideration should be made about alternatives.

The inquiry was concluded.

A handwritten signature in black ink, appearing to read "D. H. King". The signature is written in a cursive style with a large initial "D" and "H".



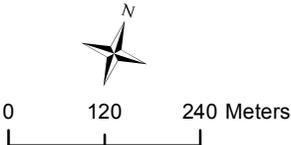
Path: G:\Legal\09 - Precedents\Maps\Maps to Council 2015\Approval to Expropriate Major Mack Drive - Weston Road to Islington Avenue.mxd

**LOCATION MAP**

Approval to Expropriate  
Major Mackenzie Drive - Weston Road to Islington Avenue  
City of Vaughan



Produced by:  
Property Services Branch  
Corporate Services Department  
© Copyright, The Regional Municipality of York, November, 2014  
© Copyright, First Base Solutions Inc. 2013 Orthophotography  
\* Includes © Queen's Printer for Ontario 2003-2014



**Legend**

-  Interest Required
-  Subject Properties
-  Parcel
-  Road