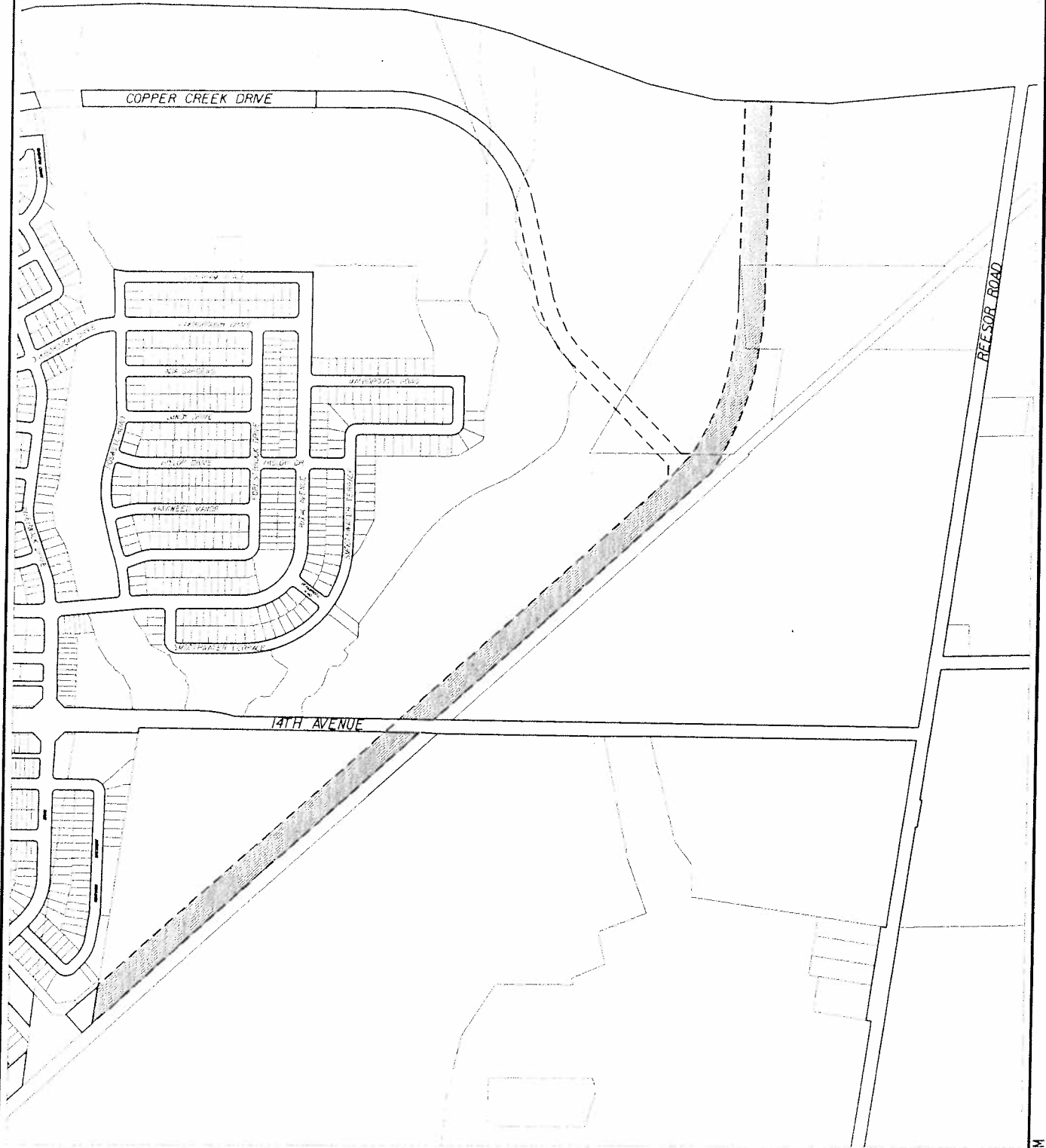


HIGHWAY 407



# ATTACHMENT 'A'

APPLICANT: BOX GROVE DEVELOPERS GROUP  
PLAN 65M-4011

FILE No: 3111



DEVELOPMENT SERVICES COMMISSION

DWN BY: CPW

CHK BY: MA

SCALE : NTS

DATE: 07/09/24

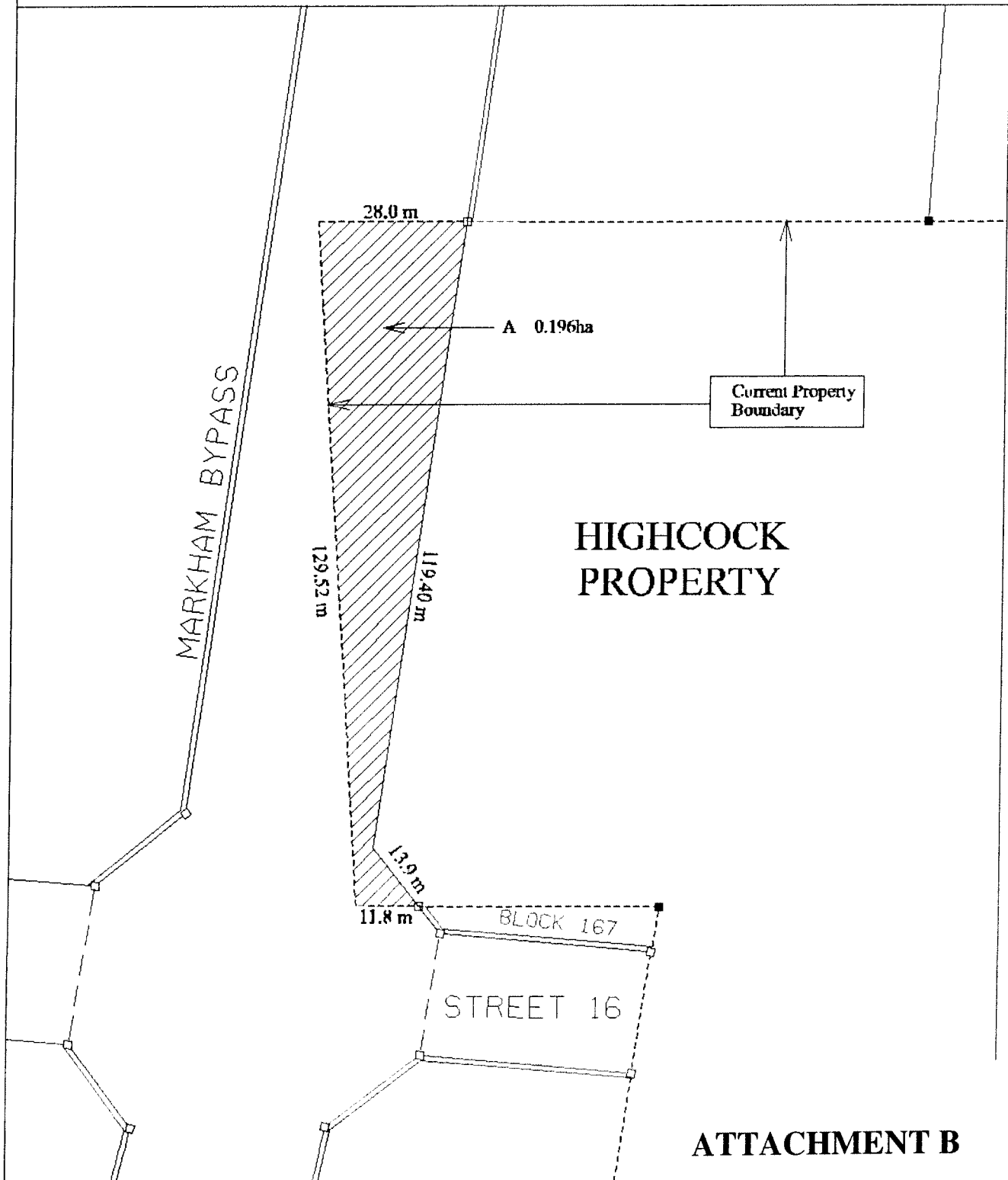
TOWN ARTERIAL ROAD

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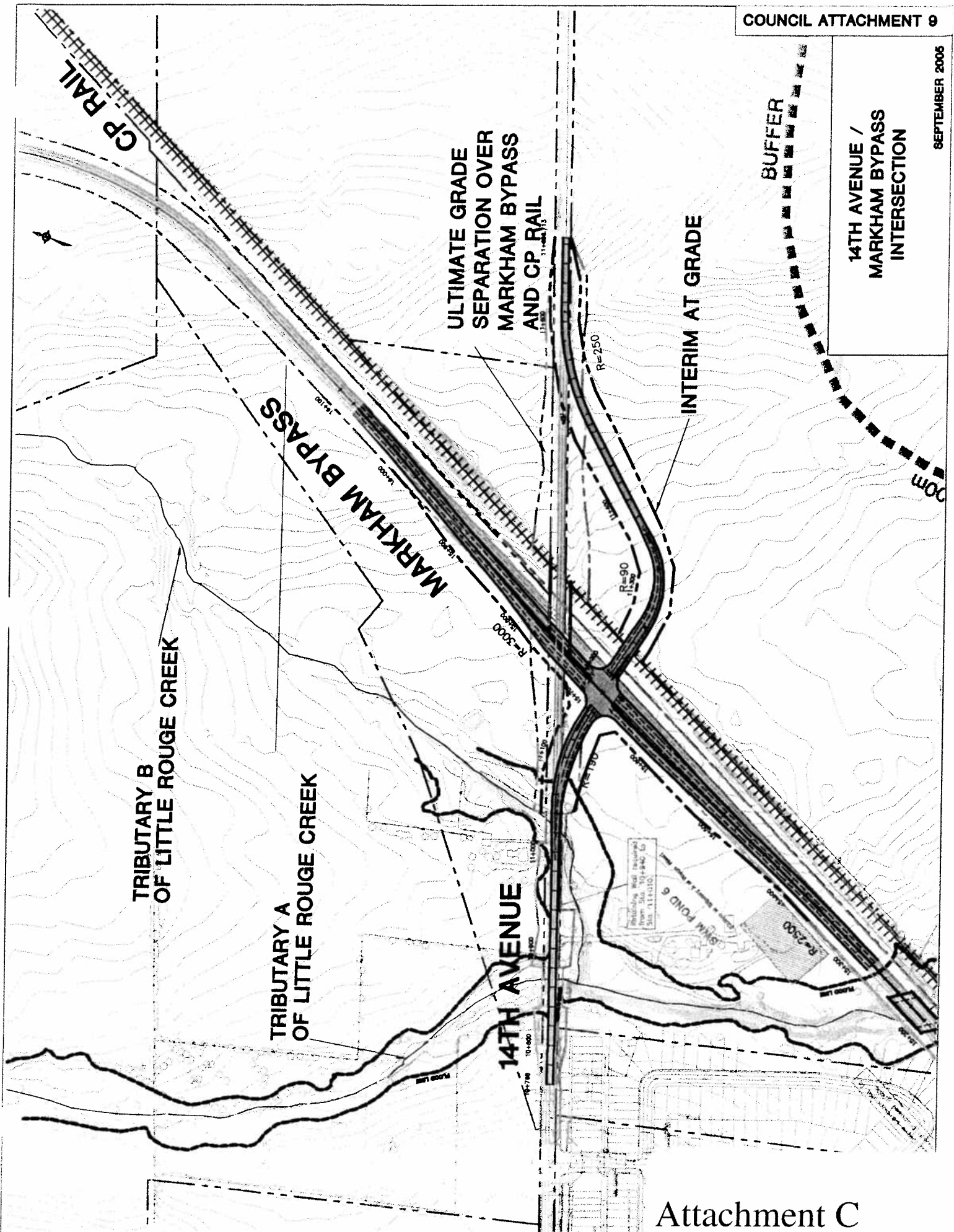
# SCHEDULE "B"

The "LANDS"

Hatched and shown as 0.196 ha



ATTACHMENT B



# THE REGIONAL MUNICIPALITY OF YORK

Transportation and Works Committee

September 5, 2007

Report of the  
Commissioner of Corporate Services

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

### **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 m<sup>2</sup> (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 9<sup>th</sup> 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 9<sup>th</sup> 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 9<sup>th</sup> 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.

**Expropriation of Land  
Donald Cousens Parkway Extension to Morningside Avenue  
Project 9870, Town of Markham**

Prepared by:

Approved by:

Paul J. Roberts  
Manager of Realty Services

Barry Crowe  
Director of Property Services

Recommended by:

Approved for Submission:

Jim Davidson  
Commissioner of Corporate Services

Bruce Macgregor  
Chief Administrative Officer

August 29, 2007

Attachment(s) 1  
sm

# THE REGIONAL MUNICIPALITY OF YORK

Finance and Administration Committee

September 6, 2007

Report of the  
Commissioner of Finance

## **DONALD COUSENS PARKWAY - MARKHAM BYPASS REVISED MEMORANDUM OF UNDERSTANDING PRINCIPLES**

### **1. RECOMMENDATIONS**

It is recommended that:

1. Regional staff be authorized to negotiate the terms of a revised Memorandum of Understanding, based on the following principles, for the construction of the Donald Cousens Parkway Extension formerly Markham Bypass to Ninth Line, between the Region, the Town of Markham and the Box Grove Developer Group.
  1. The Box Grove Developer Group will construct the Donald Cousens Parkway to a design and specification subject to the satisfaction of the Commissioner of Transportation and Works.
  2. The Commissioner of Transportation and Works may at his/her sole discretion design and construct the balance of the Donald Cousens Parkway therefore relieving the Box Grove Developer Group from their design and construction obligation.
  3. The Box Grove Developer Group will provide securities acceptable to the Commissioner of Finance and Treasurer to secure the complete construction of the Donald Cousens Parkway.
  4. The Box Grove Developer Group will pay all development charges on registration of their Plans of Subdivision.
  5. The construction securities will be returned to the developers upon completion of the Donald Cousens Parkway from Highway 407 to 9<sup>th</sup> Line subject to the satisfaction of the Commissioner of Transportation and Works.
  6. The developers will be compensated for the road construction pursuant to a standard Regional Development Charge application for Development Charge credits following completion of the entire roadway.
  7. The Box Grove Developer Group will be eligible to recover a portion of the non-growth component based on the construction timing of the project in the Region's 10 year capital plan.
2. The Regional Chair and Clerk be authorized to execute the agreement.



## **2. PURPOSE**

The purpose of this report is to obtain Council's authorization to permit Regional staff to negotiate the principles of a revised Memorandum of Understanding with the Town of Markham and the Box Grove Developer Group, and to authorize the Regional Chair and Clerk to execute the agreement.

## **3. BACKGROUND**

On June 13, 2002 the Region, the Town of Markham and the Box Grove Developer Group executed a Memorandum of Understanding 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 Committee and Council on the status of the Donald Cousens Parkway project. The report noted that the completed Individual Environmental Assessment recommends that the Parkway be constructed as a four-lane Regional arterial road as opposed to the two-lane local road envisioned in the 2002 Memorandum of Understanding. The Individual Environmental Assessment recommendations affected the 2002 Memorandum of Understanding in the following ways:

- the Town of Markham is no longer in a position to expropriate the required lands,
- delayed the construction of the Donald Cousens Parkway, and
- delayed the buildout of the Box Grove Community.

## **4. ANALYSIS AND OPTIONS**

The following section outlines the recommended revisions to the approved principles of the 2002 Memorandum of Understanding with the Town of Markham and the Box Grove Developer Group for the construction of the Donald Cousens Parkway.

### **4.1 Recognizing The Project's Uniqueness**

In recognition that this is a unique situation whereby:

1. The Individual Environmental Assessment for the Donald Cousens Parkway was completed and filed in December of 2005.
2. The City of Toronto Council opposes the alignment for the proposed link in the Individual Environmental Assessment, and prefers an alternate alignment for a portion of the roadway.
3. An agreement with the City of Toronto for the final alignment is not imminent.
4. The Ministry of the Environment has been requested to approve the common section of the alignment from Highway 407 to 9<sup>th</sup> line.
5. The section of the roadworks through the Box Grove area is common to both York Region and City of Toronto's preferred alignment.

6. There are non-participating landowners in this area who are unwilling to dedicate their lands and who do not want to construct their portion of the Parkway.

Accordingly, Regional staff recommends that the Region, the Town of Markham and the Box Grove Developer Group revise the principles of the 2002 Memorandum of Understanding to allow for the participating landowners to proceed with development of their future phases subject to the revised principles contained in this report. Both the Town of Markham and the Box Grove Developer Group have agreed to revise the 2002 Memorandum of Understanding.

#### **4.2 Highlights of the 2002 Memorandum of Understanding**

Two of the conditions of draft approval for the developers within the Box Grove Community are that the land for the Donald Cousens Parkway be dedicated to the Regional Municipality of York and that the developers construct the roadway as required. In return, participating landowners receive servicing allocation by the Town of Markham for phase 1 of their developments. These developers are now in a position to proceed with developing the balance of their phases.

In an attempt to expedite the completion of the Parkway, the Town of Markham approached the non-participating landowners to secure the lands. In case the Town is not successful, Regional staff will prepare a separate report to seek authorization to expropriate the lands required to complete the Donald Cousens Parkway between Highway 407 and 9<sup>th</sup> Line.

### **5. FINANCIAL IMPLICATIONS**

On June 13, 2002, Regional Council approved the principles of the Memorandum of Understanding for the construction of the Donald Cousens Parkway to Morningside Avenue. The construction of the Parkway to Morningside will be constructed in separate phases due to ongoing discussions with the City of Toronto, Ministry of Environment and the non-participating landowners.

Regional staff has received a request to revise the 2002 Memorandum of Understanding and has indicated that this arrangement would be acceptable based on the following additional conditions:

1. The Box Grove Developer Group will construct the Donald Cousens Parkway to a design and specification subject to the satisfaction of the Commissioner of Transportation and Works.
2. The Commissioner of Transportation and Works may at his/her sole discretion design and construct the balance of the Donald Cousens Parkway therefore relieving the Box Grove Developer Group from their design and construction obligation.
3. The Box Grove Developer Group will provide securities acceptable to the Commissioner of Finance and Treasurer to secure the complete construction of the Donald Cousens Parkway.

**Donald Cousens Parkway**  
**Revised Memorandum of Understanding Principles**

4. The Box Grove Developer Group will pay all development charges on registration of their Plans of Subdivision.
5. The construction securities will be returned to the developers upon completion of the Donald Cousens Parkway from Highway 407 to 9<sup>th</sup> Line subject to the satisfaction of the Commissioner of Transportation and Works.
6. The developers will be compensated for the road construction pursuant to a standard Regional Development Charge application for Development Charge credits following completion of the entire roadway.
7. The Box Grove Developer Group will be eligible to recover a portion of the non-growth component based on the construction timing of the project in the Region's 10 year capital plan.

Any principles of the 2002 Memorandum of Understanding that are not changed pursuant to this report remain in full force and effect.

**6. LOCAL MUNICIPAL IMPACT**

The completion of the Donald Cousens Parkway will facilitate the buildout of the plans of subdivision within the Box Grove Community in the Town of Markham. The Town of Markham will be responsible to allocate additional servicing capacity to the participating landowners.

**7. CONCLUSION**

The Region, the Town of Markham and the Box Grove Developer Group entered into a Memorandum of Understanding in 2002. In accordance with the approved principles, the Memorandum of Understanding was executed. Since then, factors related to the Individual Environmental Assessment for the roadworks, discussions with the City of Toronto and non-participating landowners have delayed the construction of Donald Cousens Parkway. Subsequently, the Box Grove Developer Group requested that the Region and the Town of Markham revise the 2002 Memorandum of Understanding to accommodate the buildout of their developments.

This report seeks authorization to negotiate the terms of a revised Memorandum of Understanding in accordance with the proposed principles in this report and to authorize the Regional Chair and Clerk to execute the agreement.

The Senior Management Group has reviewed this report.

Prepared by:

Reviewed by:

Fabrizio Filippazzo  
Senior Budget Advisor

Tony Haddad  
Director, Business Planning and Budgets

Recommended by:

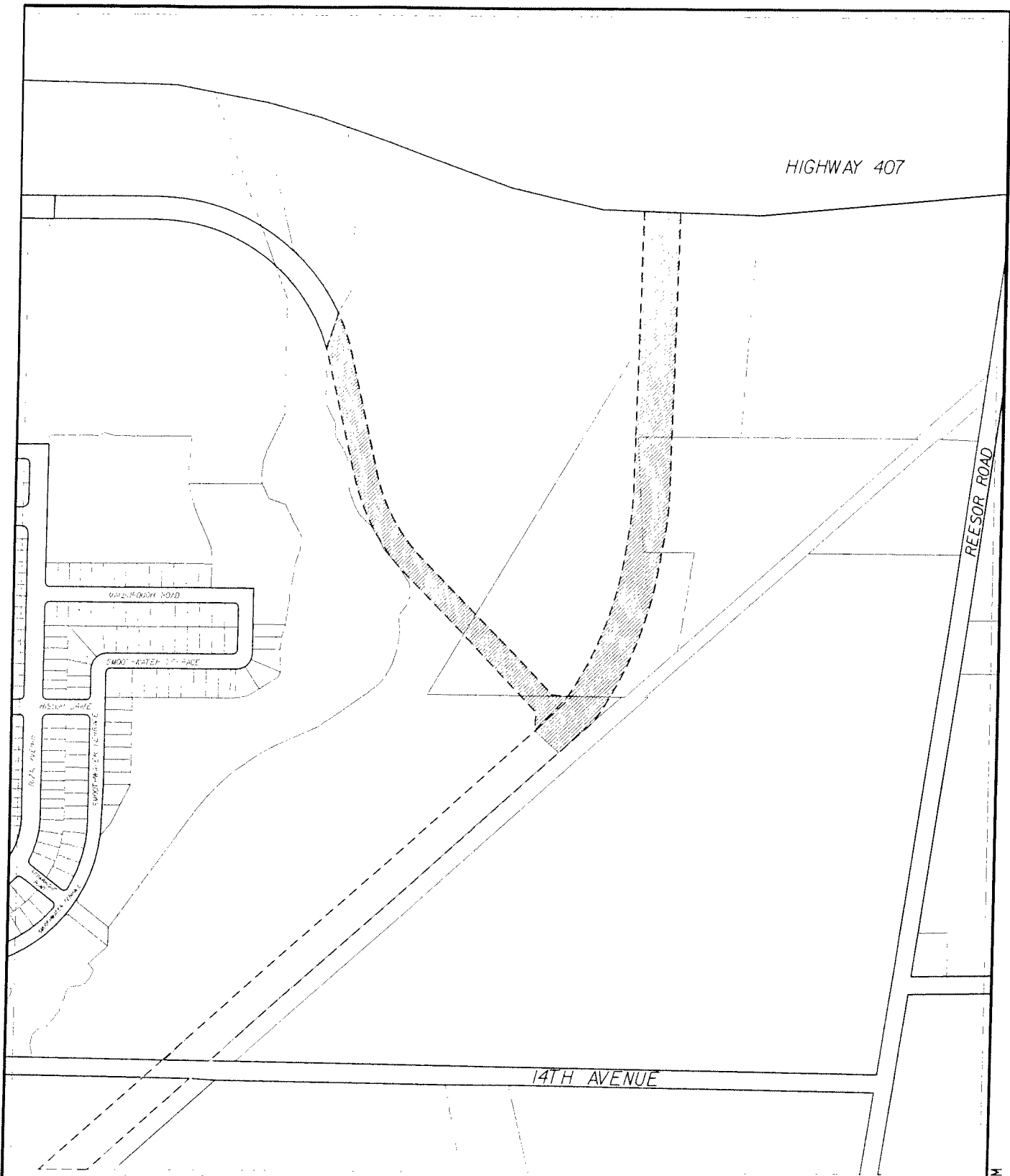
Approved for Submission:

Lloyd Russell  
Commissioner of Finance

Bruce Macgregor  
Chief Administrative Officer

August 22, 2007

ff



# ATTACHMENT 'F'

APPLICANT: BOXGROVE DEVELOPERS GROUP  
PLAN 65M-4011

FILE No:



DEVELOPMENT SERVICES COMMISSION

DWN BY:

CHK BY:

SCALE : NTS

DATE: 07/09/24

ADDITIONAL ROADS  
TO BE CONSTRUCTED

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