

Town of Whitby

Staff Report

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Report Title: Declare Surplus – A portion of Town-owned Lands at 150 Winchester Road West for a Conveyance to Elexicon

Report to: Council

Date of meeting: August 12, 2024

Report Number: FS 35-24

Department(s) Responsible:

Financial Services Department

Submitted by:

Fuwing Wong, Commissioner, Financial Services & Treasurer

**Acknowledged by M. Gaskell,
Chief Administrative Officer**

For additional information, contact:

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1. Recommendation:

1. That a portion of Block 232, Plan 40M-1966, subject to an easement over Part 10, Plan 40R-19041, as in LT902785; Town of Whitby, being a portion of PIN 26572-0369 (LT), (the “Property”) be declared surplus for the purpose of a conveyance to Elexicon Energy Incorporated (“Elexicon”);
2. That the Town provide public notice of its intention to declare the Property surplus and report back to Council on any written objections received, in accordance with Town Policy F-190; and,
3. That Council direct staff to negotiate an agreement with Elexicon on the Property disposition and report back to Council.

2. Highlights:

- Elexicon approached the Town with a request that the Town convey the Property to Elexicon for the purpose of an electrical substation project that will enable the

construction of undeveloped lands within the Brooklin Community Secondary Plan.

- Subject to Council approval of this report, Town staff will:
 - Provide public notice and obtain written objections, if any, in accordance with Town's Acquisition, Sale, or Other Disposition of Land Policy ("**Policy F 190**"). More details available in the "Communication and Public Engagement" section of this report.
 - Negotiate an agreement on the disposition of the property, including the form of disposition
 - Report back outlining any objections received and provide a recommendation to Council; and,
 - Report back on draft agreement terms.

3. Background:

The Town owns approximately 0.778 acres of land at 150 Winchester Road West (located adjacent to the storm water management pond at the north-east corner of Ashburn Road and Winchester Road West), legally described as: Block 232, Plan 40M-1966, subject to an easement over Part 10, Plan 40R19041, as in LT902785; Town of Whitby, being all of PIN 26572-0369 (LT), as outlined in **Attachment A** to this report.

The property, 150 Winchester Road West, was donated to the Town in 2006 and was the site of a new home sales office/showroom and temporary library location over the years. The original structure on the site was demolished and the parking lot was removed by the Town in 2018.

It is recommended that only the western portion of 150 Winchester Road West (described above), approximately 0.637 acres as outlined in red in **Attachment B** of this report (the "**Property**"), be declared surplus and conveyed to Elexicon.

Advancing approved and designated residential development in north Whitby has been a challenge due to the lack of electricity infrastructure and supply. This includes the majority of residential and supporting land uses in the approved Brooklin expansion Secondary Plan area. The lack of electricity / electrical infrastructure to service growth is currently the main barrier for the Town of Whitby to realize its [Provincial Housing Pledge](#), to facilitate the development of 18,000 homes in Whitby by 2031. Electricity challenges in Brooklin have also been identified as a barrier to the creation of housing units, to the Canadian Mortgage and Housing Corporation, for Housing Accelerator Fund targets.

Elexicon Energy Incorporated ("**Elexicon**") is the local distribution corporation for electricity in Whitby and other municipalities. Elexicon is a subsidiary of Elexicon Corporation, which is wholly owned by the Towns of Whitby and Ajax, the Cities of Pickering and Belleville, and the Municipality of Clarington.

In April 2024, Elexicon expressed an interest in the Town-owned property at 150 Winchester Road West for the purposes of constructing an electrical substation that will enable the development of 2,000 to 5,000 new homes in the approved Brooklin Secondary Plan Area and improve system reliability in the community. According to

Elexicon, the Property has passed their high-level assessment for an electrical substation which is planned to be supplied by two (2) new 44 kV feeders currently going north on Ashburn Road and East on Winchester Road (Hwy 7). At this time, Elexicon is considering a fully enclosed electrical substation and provided an example of the enclosed “Lawler substation” shown in **Attachment C** to this report.

To complete a more detailed assessment, a Permission to Enter (“PTE”) Agreement was executed on July 22, 2024, allowing Elexicon and their consultants to conduct a site feasibility study. According to Elexicon, their consultants and contractors will be investigating the feasibility of building a new electrical substation at the Property over approximately four days between August 5 and 23, 2024. To expedite the process that will allow for the construction of the electrical substation / electrical infrastructure to support the 2,000 to 5,000 new homes in north Whitby (subject to written objections and the site feasibility study), the property disposition process (i.e. declaration of surplus, public notice) is being completed concurrent with Elexicon’s site feasibility study.

Elexicon’s proposal to develop an electrical substation on the Property has been circulated to internal Town departments. Aside from comments from the Planning & Development, and Strategic Initiative departments, no other comments were noted. Comments received are as follows:

Planning & Development:

- The site is currently zoned ‘G’ Greenbelt in Zoning By-law 1874.
- Public uses, including structures are permitted on any lands within the municipality for the purpose of the public service.
- Any proposed development will be required to comply with Town of Whitby setback provisions for the zone category and the Ministry of Transportation of Ontario’s set-backs from their provincial highway right-of way. If the structure does not meet the Town’s setback requirements as set out in the by-law, a successful minor variance application will be required.

Strategic Initiatives:

- Elexicon should consider including public art along the Winchester Road frontage as this corridor also acts as a gateway into Brooklin from the west and including natural screening along Amanda Avenue.
- The enabling of the creation of housing units within Whitby aligns to Housing Accelerator Fund initiatives.

4. Discussion:

The disposition of Town-owned land (including sale or long-term lease) is guided by Town Policy F 190 - the “Acquisition, Sale or Other Disposition of Land Policy”. Policy F 190 outlines the following process for the disposition of Town-owned land:

- Obtain the fair market value of the property via an appraisal report from a qualified appraiser;
- Provide public notice which includes:
 - Posting a sign on the Property for not less than ten days;

- An advertisement in a newspaper having general circulation within the Town; and
- Posting notice on the Town's website;
- Provide the public an opportunity to submit written objections (including the person's name, address and reason(s) for objecting) to the Town within 20 days after notice is provided;
- Staff are to prepare a report to Council outlining the objection(s) received and provide recommendations to Council regarding the subject Land.

Fair Market Value

The fair market value of the Property is \$2,230,000 based on the appraisal from Colliers International dated July 4, 2024 for the area outlined in red in Attachment B. The fair market value may be adjusted subject to a reference plan confirmation of acreage to be conveyed.

Public Notice

As part of the Town's public notice, Town staff will incorporate information about Elexicon's proposed project with a link and/or contact information at Elexicon to obtain more information. Further details on public notice and how the public may provide written objections to this declaration of surplus is provided in the "Communication and Public Engagement" section of this report.

Negotiation of an Agreement

Subject to approval of this report, Town staff will negotiate an agreement with Elexicon, including the form of the Property disposition (e.g. sale, lease), and report back to Council following the communication and public engagement related to Council's land surplus declaration.

Critical Electricity Supply Infrastructure

As noted in the background section, above, the construction of an electrical substation to allow for the continued growth of Brooklin. It is also necessary as critical infrastructure for the Town to meet its growth targets and goals. If this electrical infrastructure is not constructed, and growth is unable to proceed, it could have negative effects on the Town's future capital program.

5. Financial Considerations:

To-date Elexicon has paid \$301.71 and \$9,348.49 (inclusive of HST) for the PTE Agreement, Stage 1 & 2 Land Acquisition Application fees, respectively, to recover for staff time and the land appraisal costs.

The proposed electrical infrastructure will allow for up-to 5,000 new homes to be constructed which advances current Federal and Provincial housing priorities and should improve the Town's collection development charge ("DC") revenues. Development Charges are used to pay for growth-related infrastructure (e.g. roads, new fire station, recreational facilities, etc.). As recently reported, Development Charges collected in 2023 (\$9.5 million) were significantly lower than DC revenues in recent years (i.e. \$42.8 million in 2022 and \$42.5 million in 2021). Although 2023 represents the first full year following the passage of Bill 23, the More Homes Built Faster Act, which introduced significant changes to the Development Charges Act and Planning Act related to lowering the fees developers pay related to growth/ development, the decline in DC revenues is directly attributable to a decrease in building activity (lower building permits being pulled) in Whitby. The slow down in development activity (and DC collections) results in lower DC reserve balances and may result in the temporary deferral of growth-related projects identified in the Town's DC Background Study.

6. Communication and Public Engagement:

Town Policy F 190 regarding the Acquisition, Sale or Other Disposition of Land Policy, requires public notice following the Town's declaration of lands to be surplus, which includes:

- Posting a sign on the Property for not less than ten days;
- An advertisement in a newspaper having general circulation within the Town – this will be the Brooklin Town Crier; and
- Posting notice on the Town's website.

Further, in accordance with the Policy, any person may submit an objection, in writing, to the Clerk 20 days after notice is provided. The objection shall include the person's name, address and reason(s) for objecting. The Town will be using the Connect Whitby engagement platform to provide information and assist with the collection of written objections. In accordance with the policy, staff will prepare a report to Council outlining objection(s) received, if any, and provide a recommendation to Council. If no objection is received, Council's decision to declare the Lands surplus shall be final.

The Town's Communications team is collaborating with Elexicon's Communications team to ensure an aligned approach to messaging and information sharing.

As noted earlier in this report, Elexicon's consultants and contractors initiated their site feasibility study the week of August 5, 2024. Elexicon provided information notices via a mail drop to the community prior to the start of the on-site study. Residential properties along Amanda Avenue and surrounding streets within the immediate area of Ashburn Road and Winchester Road were sent postcards (see **Attachment D**) outlining the Elexicon's proposed project.

7. Input from Departments/Sources:

Elexicon's proposal for the Property and this report was circulated to all Town departments. Departmental comments have been incorporated into this report.

Legal Services has reviewed this report and has provided advice regarding the completion of this matter, and will be facilitating the completion of the transaction if approved by Council.

8. Strategic Priorities:

The recommendations of this report support Strategic Pillar 4: Whitby's Government of the Community Strategic Plan. Specifically, enabling electrical infrastructure to be built supports the planned future growth noted in Action Item 4.4.2 of the Town's Community Strategic Plan.

9. Attachments:

Attachment A – Outline of 150 Winchester Road West

Attachment B – Outline of the Portion of 150 Winchester Road West Proposed to be conveyed

Attachment C – Example of an Enclosed Electrical Substation

Attachment D – Elexicon Postcard direct mail drop