

Town of Whitby

Staff Report

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Report Title: 150 Winchester Road West - Public Engagement on Surplus Land Declaration

Report to: Committee of the Whole

Date of meeting: October 21, 2024

Report Number: FS 40-24

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 public feedback, including written objections, to the Town's declaration of 150 Winchester Road West as surplus lands, as outlined in Staff Report FS 40-24, be received;
2. That staff be authorized to negotiate a License agreement with Elexicon Energy Incorporated for long-term license of (and inclusive of an option to purchase) 150 Winchester Road based on the principles outlined in Staff Report FS 40-24 and to the satisfaction of the Commissioner of Legal and Enforcement Services and Commissioner of Finance; and,
3. That the Mayor and Clerk be authorized to sign the final License agreement between the Town of Whitby and Elexicon Energy Incorporated.

2. Highlights:

- On August 12, 2024, Town of Whiby Council declared Town-owned lands at 150 Winchester Road West surplus with the intention to convey the lands to Elexicon Energy Incorporated;
- Public notice of the surplus land declaration and intention to convey the lands to Elexicon was provided in accordance with Town policy and 13 written objections were received.
- The written objections and responses/comments to the objections summarized in this report.
- Staff recommend proceeding by way of a long-term licensing agreement with Elexicon with an option for Elexicon to purchase the property in the future.

3. Background:

On August 12, 2024, Town of Whiby Council approved [Staff Report FS 35-24](#), which declared Town-owned lands at 150 Winchester Road surplus with the intention to convey the lands to Elexicon Energy Inc.

The Property

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 declaration of surplus applies only to 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**”). Attachment B has been adjusted to extend to the sidewalk/multi-use path to clearly delineate maintenance responsibilities (e.g. mowing of grass) between the Town and Elexicon should Council approve this report. The Property is to be confirmed via a reference plan.

Elexicon Energy Incorporated

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 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.

Electricity Infrastructure Supports Housing

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.

Town Policy F 190

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.

4. Discussion:

Public Notice in accordance with Town Policy was provided and the public was provided an opportunity to submit written objections until the end of the day on September 3, 2024. A total of 13 written objections were received, as summarized below:

Table 1: Summary of 13 Written Objections Received

Frequency	Area of Concern
6	Aesthetic

	<ul style="list-style-type: none"> - Looks like a concrete bunker, not suitable for entrance feature into Brooklin
4	<p>Loss of Greenspace</p> <ul style="list-style-type: none"> - pets, children, and wildlife currently use this green space - concern about the removal of trees
4	<p>Incorporate substation as part of new future development</p> <ul style="list-style-type: none"> - Will the substation benefit existing residents (stability, less spikes in electricity)? - Also, consideration requested to locate the substation on the south side of Hwy 7/Winchester
3	<p>Health Concerns</p> <ul style="list-style-type: none"> - Noise, electro-magnetic frequencies - Concerns about increase in traffic
2	<p>Decrease in Property Value</p>
1	<p>Misleading Picture on the poster</p> <ul style="list-style-type: none"> - A resident noted that the picture of an example enclosed Elexicon substation (believed to be at Thickson and Columbus) does not show a 30-ft Tower at that location
1	<p>Proposed substation will be beside a storm water management pond</p> <ul style="list-style-type: none"> - 100-Year Storm concern

Note: Frequency of concerns totals 21 as many of the 13 written objections received noted more than one area of concern.

The following are responses to the seven (7) areas of concern, highlighted above, from the written objections received:

Aesthetic

This concern was forwarded to Elexicon and the following response was received: The image is for reference but is not the final design for the substation that may be built at this location. The substation in the image is in another area of Whitby and is not directly facing a residential neighbourhood. If the project does move forward, Elexicon Energy will share the design with Town officials and provide further details to the community.

Loss of Greenspace

Attachment D to this report outlines existing parks and green space within a 1 km radius of the Property. In total there is approximately 65.5 acres of parks and green space within the 1 km radius. The attachment also outlines three future parks planned within the same area totaling 5.6 acres (BSW-2 at 3.7 acres; BC-2 at 0.9 acres; and BC-3 at 1 acre). Additionally, the new Whitby Sports Complex (shown in Attachment D) will add approximately 12.35 acres of new parkland with over 1,400 trees and many naturalized meadow areas.

Incorporate as part of new future development & does this benefit existing residents?

Elexicon's response: The substation location will not only power the new homes being built in the area, but it will also provide more reliable service to customers who live nearby. The new substation would increase the available capacity and reliability of power to Elexicon Energy's customers in Brooklin. The land was chosen due to its proximity to the new home developments. It is currently owned by the Town of Whitby and will be used by Elexicon Energy for a new substation if the project moves forward.

Regarding the south side of Hwy 7: Several sites around the community were considered for the substation, but due to a number of factors, the current site offers the most viable location for the potential substation.

Health Concerns

Elexicon's response: There are several substations embedded in residential communities across Ontario to help power homes, businesses and other infrastructure. Elexicon Energy meets and/or surpasses all of the regulated safety requirements, codes and standards. Further, a noise assessment is being conducted as part of the site feasibility to ensure the potential substation meets the municipal noise by-laws.

Elexicon intends to apply for Winchester Road to be used as the primary entrance for the substation, with secondary access off Amanda Avenue. These plans must go through the correct approval process with the Ministry of Transportation for Ontario, should the project move forward. If the primary entrance is not approved for Winchester Road and Amanda Avenue is used, the traffic will be minimal once construction is complete. The area will only be accessed regularly once monthly for inspection. All other access will be ad-hoc maintenance as required.

Decrease in Property Value

Property assessments in Ontario are determined by the Municipal Property Assessment Corporation ("MPAC"), an independent organization. The five key factors that affect a property's value are: age of the buildings on the property, total square footage of living area, location of the property, size of the lot, and quality of construction. Further, Elexicon is proposing to enclose the substation so it will look like a building from the

street. Accordingly, assessment values are not anticipated to be negatively impacted due to the proposed substation.

Misleading Picture on the poster (see Attachment C)

Elexicon's response: There will be no transmission towers at this proposed site. The tower that is located at Thickson and Columbus in Brooklin is a communication tower and is not Elexicon Energy's infrastructure. There may, however, be hydro poles installed on the north side of Winchester Road, similar to the ones that already exist on the south side.

Proposed substation will be beside a storm water management pond

Elexicon's response: As part of the site assessment, which will be completed prior to moving this project forward, a flood plan assessment will be completed to determine any flooding concerns and stormwater management needs.

Proposed License Agreement Terms

In addition to standard agreement terms such as insurance, indemnification, and taxes Town staff have negotiated the following additional terms proposed for Elexicon's license of the Property:

- **Term and Extension:**
 - The initial term is from November 1, 2024, to October 30, 2045 (21 years less a day);
 - Option for Elexicon to extend for three additional terms of twenty years each (up-to an additional 60 years).
- **Fees and Expenses:** The Town will charge Elexicon a nominal annual fee for the license. Elexicon is responsible for expenses, including taxes, utilities, and maintenance;
- **Termination Clause:** Either party may terminate the agreement with 180 days' prior written notice without cause or penalty;
- **Restoration:** Elexicon is responsible for the full restoration of the site to original conditions at the end of the License. This includes removal of all infrastructure constructed on the site and environmental/contamination remediation, if required (see below);
- **Environmental Assessments:** Elexicon is responsible for conducting environmental assessments before and after the term:
 - The assessment before the term will serve as a baseline;
 - Contamination found in the assessment at the end of the term above the baseline will be the responsibility of Elexicon to remediate as part of Elexicon's requirement to restore the site to original conditions;
- **Option to Purchase:** Elexicon has the option to purchase the Property at fair market value upon the occurrence of specific trigger events:

1. **Third Party Transfer** – If the Town intends to sell, lease, license the Property to another party (other than Elexicon);
 2. **Termination of the License:** If the License is terminated by either party, Elexicon has the option to purchase the Property;
- The fair market value will be determined by an independent appraiser in the future (e.g. at the time the option to purchase is exercised)

5. Financial Considerations:

There are no immediate financial implications to this report. Should Elexicon exercise an option to purchase the property in the future, Elexicon will pay fair market value as determined by a future land appraisal. A land appraisal commissioned by the Town earlier this year identified a fair market value of \$2,230,000, as at July 4, 2024.

6. Communication and Public Engagement:

This report contains written objections received from the public following public notice (including posting of a sign on the Property, newspaper advertisement, and posting on the Town's website) in accordance with Town policy.

7. Input from Departments/Sources:

Legal Services has reviewed this report and has been involved with the License Agreement discussions with Elexicon.

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 – Parks and Open Space in the Area