

This week's announcement that the City of Windsor would expropriate land to solve the Ojibway Shores issue, thereby protecting that important piece of this region's habitat in perpetuity, was a welcome one. But it also highlighted once again the randomness with which Windsor City Council approaches land use planning.

The Ojibway expropriation is probably an entirely legitimate use of the City's broad power to expropriate land. Expropriation ("eminent domain" in the US) is broadly defined as the non-consensual taking of private property by a public authority for a public purpose, in exchange for fair compensation. All levels of government, as well as other public authorities, including school boards, universities, and conservation authorities, have this power. It is a blunt tool of urban planning, and should not be used without careful consideration and consultation.

Elizabeth Brubaker, an activist and observer of expropriation law and practice in Canada, has noted that Windsor belongs in the expropriation hall of shame. Indeed: this city has a checkered history with expropriation. We use it when it's not appropriate, then shy away when it could really be useful. Think for example of the Windsor casino; the historic Norwich Block demolition downtown; and the recent expropriation of a small number of properties next to the airport on a loose justification of land assembly for future, as-yet unknown, economic investment.

Yet when it came to the site selection for the proposed new mega-hospital, the site selection committee took the approach which was the least obtrusive but also the least principled from an urban and health care-planning perspective: property owners were simply asked to offer up land they were willing to sell for the project. And a majority of city councillors claimed it was not their business to consider location. Instead, they simply committed, few questions asked, to generations of

Windsorites paying for the new infrastructure to develop an unneeded new subdivision of the city.

By contrast, just a few years back, more than 900 properties (approximately 300 of them residential) were expropriated, or sold under threat of expropriation, to create the Herb Grey Parkway leading to the new Canada-US Gordie Howe Bridge. While the Ontario Ministry of Transport was the expropriating authority, the actual route of the parkway was hammered out through intense negotiations between province and City – remember Mayor Eddie Francis’ “Green Link” proposal? Those efforts showed in the final plan, which is much better for Windsor than what the province first proposed.

All of which makes it harder to understand why, for the hospital location, the City declined to approach land assembly in a similarly proactive way. Selecting the location for the new hospital is the single most important land use planning decision to be made in this community for decades. The province could have expropriated land based on its responsibility for health care. But the City too could have expropriated according to section 28 of the Ontario Planning Act. That provision allows expropriation on the basis of a community improvement plan, for which the hospital could have been an anchor (as it has been in midtown Detroit for example).

Frankly, expropriation probably wouldn’t have been necessary given the amount of brownfield available in the city’s established footprint on which a hospital could be built. The point is that City Council has a range of tools available to it which it could legitimately have used to make sure the hospital went where it should.

The process should have started from a consideration – through extensive, real, community consultation – of where the ideal location for the hospital would be. The decision should be based on the host of

factors that make a good location for such a major investment in our community: access to health care for all (but especially the most vulnerable), integration into existing transit and active transit networks, and yes – ability to encourage urban rejuvenation in a city desperate for this kind of infusion. “Eds and meds” are said to be two of the key players in urban rejuvenation; the City has been a leader in bringing the University of Windsor and St Clair College downtown while simultaneously planning to empty the established core of the “meds”.

This Monday, Windsor City Council should reject the applications for re-zoning necessary to allow construction of the new hospital on County 42. They should then work with the province to select the best location for Windsor. The city deserves nothing less, and Council has the tools available to do it.

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