



## Member Motion

### City Council

#### Motion without Notice

MM52.41	ACTION			Ward: 24
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#### **2489 Bayview Avenue, Canadian Film Centre, Windfields Park - by Councillor Shiner, seconded by Councillor Rae**

*\* This Motion has been deemed urgent by the Chair. Council has added this Motion to the agenda for debate.*

#### **Recommendations**

Councillor Shiner, seconded by Councillor Rae, recommends that:

1.
  - a. That the City, as Landlord of the premises at 2489 Bayview Avenue leased to the Canadian Film Centre ("CFC") grant its consent, pursuant to the provisions of the Lease, to the CFC's plans for approximately 10,581 sq.ft. in additions to the leased facilities, including additional ground floor areas of approximately 2,067sq.ft. for the Gate House and 4,495 sq.ft. for the Actors' Conservatory (23 ft high), as well as to 24 additional parking spaces; and, that these adjustments to the leased facilities be entitled to receive the City's Gold Star Service for strategic developments because the CFC is a strategic institutional use in Toronto.
  - b. That the City, as property owner, consent to the CFC's applications for any building permits in respect of the said CFC's additions and additional parking.
  - c. That the City's consents referred to in (a) and (b) above be conditional upon, to the extent same is required by the restrictive covenants, on consents being received or being acquired as provided for in sections 2 and 3 below.
2. That Council direct the Director, Real Estate Services to continue discussions with the holders of the restrictive covenants to obtain their consent to the said additions and 24 parking spaces proposed by the CFC; to address concerns of restrictive covenant holders, such discussions may include implementing steps such as buffering, tree planting, landscaping and related works or other compensation, such costs to be subject to the approval of the City Manager.
3. That if the consents required are not obtained by September 30, 2010, Council authorize the Director, Real Estate Services:
  - a. to initiate the expropriation process to acquire a limited estate, being an estate for that limited period of time from the date of registration of the plan of expropriation to December 31, 2013, in all the right, title and interest of the

rights of the restrictive covenant holders in the restrictive covenants (as those rights are hereinafter defined) in that portion of Windfields Park known as 2489 Bayview Avenue, (as hereinafter defined) for park and municipal purposes, including the economic development of the premises leased (and to be leased as authorized herein) to the CFC;

- b. to submit the City's request to the Lieutenant Governor in Council to direct, pursuant to section 6 of the Expropriations Act, that this intended expropriation shall proceed without an inquiry hearing and related steps because, in these special circumstances, it is necessary or expedient in the public interest to do so;
  - c. if the intended expropriation is not exempted from the inquiry process and related steps or, if the Director, Real Estate Services believes that the intended expropriation will not be exempted from the inquiry process and related steps, that the Director, Real Estate Services be authorized to sign an application for approval to expropriate and to serve and publish Notices of the Application for Approval to Expropriate; to forward to the Chief Inquiry Officer any request(s) for an inquiry hearing that is/are received; to attend any such hearing to present the City's position; and to report the Inquiry Officer's recommendations to City Council for its consideration.
4. That the City Solicitor and any other appropriate staff be directed to attend at all proceedings before the Ontario Municipal Board seeking approval of CFC's Application to the Committee of Adjustment.
5. That notwithstanding section 4 of By-Law 483-2000, the power and authority of the Chief Planner and his or her designate to approve or to refuse site plan application(s) respecting the premises (leased or to be leased to the CFC), be final and binding.
- 6.
- a. That the City Manager be authorized and directed to take all steps to expedite the approval, implementation and consents required for the CFC's plans for the said additions and additional parking.
  - b. That the City Solicitor be authorized to undertake and/or defend any court or other proceedings to support the City's position.
7. That the City's Lease to the CFC be amended, on terms satisfactory to the Director, Real Estate Services, in a form satisfactory to the City Solicitor, to also include the following three additional parcels:
- a. an area adjacent to the Gate House comprised of approximately 0.249 ha. (26,802 sq.ft.) to be used in connection with the gate house addition;
  - b. an area at the SW quadrant of Windfields Park fronting on Bayview Avenue, approximately 0.416 ha (44,778 sq.ft.), a portion of which is to be used solely for 24 parking spaces; and
  - c. the existing orchard (approximately .349 ha area or 37,566 sq ft) along the easterly limit of the leased premises, subject to CFC's obligation to maintain the orchard and to protect the orchard from vehicles in the Park, provided the orchard shall remain open to pedestrians; this area shall not include a 66 foot wide strip of land between the orchard and the rear of the houses on Country Lane).

- 8.
- a. That the limited estate to be expropriated is in the benefit of those rights of the holders of the restrictive covenants to grant various consents, which rights are described on title as follows:
- "2. No building or structure shall be erected upon the said lands unless the dimensions (including height) and location thereof as indicated by a siting plan shall have been first submitted to and approved in writing by the owners for the time being of the dominant tenement or the nominee for the time being of such owner, and no building or structure shall be constructed or placed upon the said lands otherwise than in conformity with such dimensions and siting plan."
- "3. No part of the said lands shall be used for parking purposes other than areas specifically designated for that purpose, and no parking area shall be laid out or constructed on the said lands or any part thereof unless the plans, dimensions and location thereof have been first submitted to and approved in writing by the owners for the time being of the dominant tenement or the nominee for the time being of such owners, and no parking area shall be laid out or constructed upon the said lands otherwise than in conformity with such plans, dimensions and location."
- b. That the properties having the benefit of the said restrictive covenants and from which the limited estate in the benefit of such restrictive covenants referred to above is to be expropriated, (the registered owners from time to time of which have the benefit of the said restrictive covenants), are described as:
- PART 16, Reference Plan R.S. 629, which includes the properties known municipally as follows:
- 26 Country Lane, Part 1, 64R-15183  
 28 Country Lane, Part 2, 64R-15183  
 30 Country Lane, Part 3, 64R-15183  
 32 Country Lane, Part 4, 64R-15183
- PART 17, Reference Plan R.S. 629 which includes the properties known municipally as follows:
- "0" Country Lane, Part 1, 64R-16155  
 "0" Country Lane, Parts 2 & 3, 64R-16155
- PARTS 18, 19 & 20, Reference Plan R.S. 629 which includes the properties known municipally as follows:
- 51 Country Lane, Parts 4, 5 & 6, 64R-16155
- c. The portion of Winfields Park against which the burden of the limited estate in the said restrictive covenants is to be expropriated from is the westerly 21 acre portion of the Park described as Part 15 on Reference Plan R.S. 629.
9. That City Council authorize and direct the appropriate City Officials to take the necessary action to give effect to the foregoing, including the introduction in City

Council of any bills necessary to give effect thereto.

## Summary

The Canadian Film Centre (CFC), the long-term tenant of 2489 Bayview Avenue (Windfields Park), and the City have been awarded a grant from the federal-provincial Infrastructure Stimulus Funds program (ISF) in the amount of \$4 million dollars for leasehold improvements proposed by the CFC. The Province has also awarded the CFC \$2.5 million for this project, and of the total project cost of \$9 million, City Council has approved a contribution of \$1 million.

The proposed works include construction of approximately 10,000 sq ft of additional educational and administrative space (ground floor area of 2,067 sq.ft. for an addition to the Gate House and 4,495 sq.ft. for the Actors' Conservatory to replace the derelict and hazardous pool and cabanas), 24 additional parking spaces, barrier free access, site access improvements, and heritage landscape conservation and enhancements. Over \$2.0 million of this funding is investment into the state of good repair of these City-owned heritage buildings, including window and roof replacement, electrical and foundation work, restoration of the greenhouse, and the installation of a new geothermal system, in accordance with the City's greening initiatives.

At its March 2010 meeting, City Council already authorized amendments to the Lease to expand the area of the leasehold and to expedite this project. On June 23, 2010, the Committee of Adjustment granted approval to extend and expand the legal non-conforming use (as an educational facility) to permit the above mentioned works. At its July 2010 meeting, City Council also approved proposed alterations to this designated heritage property and authorized entering into a heritage easement agreement, in accordance with the Toronto Preservation Board approval.

In order to commence construction of the proposed 10,581 sq.ft. additions and the 24 parking spaces, consent is required from five (5) owners of residential properties adjacent to the leased premises that hold restrictive covenants registered on title to the City property that is leased to the CFC. To date, owners of two (2) of the properties have provided consent and three (3) owners have refused.

This matter is urgent because the Project must proceed with these works on this property as soon as possible if these works are to be completed by the ISF's March 31, 2011 deadline, after which the unspent portion of the ISF funding will be forfeited. It is also appropriate for the City to attempt to obtain the consents of the holders of restrictive covenants to permit these important works because they will not only benefit City buildings but, more significantly, will also improve the CFC's role in maintaining Toronto as an important centre for Canadian development in television and film media, and continuing to support the economic benefits that flow from a robust cultural/creative industry. Accordingly, in the broader public interest, authorizations and direction to staff are recommended below, including expropriation and expedited consents, for the purpose of attempting to ensure a timely implementation of the proposed project.

(Submitted on August 25 and 26, 2010 as MM52.41 )

## Background Information (City Council)

Site Context Plan - 2489 Bayview

(<http://www.toronto.ca/legdocs/mmis/2010/mm/bgrd/backgroundfile-33353.pdf>)