



REPORT FOR ACTION

Application for Approval to Expropriate - 39 Commissioners Street

Date: June 10, 2019
To: General Government and Licensing Committee
From: Acting Director, Real Estate Services
Wards: Ward 14 - Toronto-Danforth

SUMMARY

This report seeks authority for the City of Toronto to initiate expropriation proceedings for 39 Commissioners Street in connection with the Port Lands Flood Protection project ("PLFP").

The PLFP project is a \$1.25 billion infrastructure investment by the three levels of government that will provide flood protection to the level of the regulatory storm event (the equivalent of Hurricane Hazel) for the Port Lands and South of Eastern Avenue areas. Led by Waterfront Toronto, but funded by the City, the Province of Ontario, and the Government of Canada, PLFP construction is underway with a targeted completion date in 2024.

As part of PLFP, Commissioners Street needs to be raised, reconstructed, and expanded south of its current alignment to accommodate future vehicular, transit, cycling, pedestrian, and servicing infrastructure. The repositioning of Commissioners Street was approved as part of the 2014 Lower Don Lands Environmental Assessment Master Plan Addendum and Environmental Study Report. The approved alignment will require the right-of-way to traverse 39 Commissioners Street, a privately-held property.

For the past year, Waterfront Toronto has been in ongoing negotiations for a land exchange/acquisition of 39 Commissioners Street from the existing landowner and their tenant. Negotiations are still ongoing, however, if a resolution is not achieved in the near term, construction timelines for PLFP will be adversely impacted. Waterfront Toronto has accordingly requested that the Waterfront Expropriation Protocol be utilized by submitting a Property Expropriation Request Form and relevant documentation to the City of Toronto.

RECOMMENDATIONS

The Acting Director, Real Estate Services recommends that:

1. City Council authorize the Director, Real Estate Services, to initiate expropriation proceedings, if necessary, to acquire the property municipally known as 39 Commissioners Street, legally described in Appendix A and approximately shown on Appendix B.
2. City Council authorize the Director, Real Estate Services, to serve and publish Notices of Application for Approval to Expropriate the property municipally known as 39 Commissioners Street, to forward any requests for hearing to the Chief Inquiry Officer, to attend any hearings in order to present the City of Toronto's position, and to report the Chief Inquiry Officer's recommendations to City Council for consideration.

FINANCIAL IMPACT

As per the Waterfront Expropriation Protocol, Waterfront Toronto will be responsible for all costs associated with the expropriation and will indemnify the City in respect of such costs. The costs of expropriation include the market value of the 39 Commissioners Street, disturbance costs (if any), interest, applicable taxes, and all other costs stipulated under the Expropriations Act.

The City of Toronto has committed a contribution of \$346.2 million in the Approved 2019-2028 Waterfront Revitalization Initiative Capital Budget and Plan towards the Port Lands Flood Protection tri-government project. The costs of the expropriation will be funded by Waterfront Toronto from the project's budget.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting on June 8 and 9, 2010, City Council adopted the report of May 4, 2010 from the Deputy City Manager titled "Waterfront Expropriation Protocol". The report outlined a Protocol between the City of Toronto and Waterfront Toronto to accelerate waterfront renewal by creating a common understanding of the requirements of the process, and the respective roles of both parties.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.EX44.9>

At its meeting on July 4, 2017, City Council adopted the May 16, 2017 staff report from the Deputy City Manager, Cluster B, titled "Port Lands Planning Initiatives – Interim Report". City Council endorsed, in principle, the draft Port Lands Official Plan modification to the Central Waterfront Secondary Plan and the preferred street, transit,

and municipal servicing solutions for the Port Lands South of Eastern Transportation and Servicing Master Plan.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG21.4>

At its meeting on December 5, 2017, City Council adopted the report of September 27, 2017 from the Deputy City Manager, Cluster B titled "Port Lands Planning Initiatives – Final Report". City Council adopted recommendations that, among other things, endorsed the Villiers Island Precinct Plan (September 2017), prepared by Urban Strategies Inc. on behalf of Waterfront Toronto.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG24.6>

As part of the 2018 Budget process, City Council adopted the report of December 5, 2017 from the Deputy City Manager, Cluster B and the Acting Chief Financial Officer titled "Port Lands Flood Protection". The report authorized the Deputy City Manager Cluster B, or his delegate, in consultation with the Acting Chief Financial Officer, to execute a Contribution Agreement with the Federal and Provincial governments and Waterfront Toronto for Port Lands Flood Protection, based substantially on terms attached to the report.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.BU39.1>

COMMENTS

The Waterfront Expropriation Protocol (the "Protocol") was adopted by City Council in June 2010 for instances where consensual negotiations between Waterfront Toronto and private landowners do not lead to the acquisition of the required lands in a timely manner. In these instances, Waterfront Toronto can request the City to exercise its expropriation power. Waterfront Toronto submitted a Property Expropriation Request Form and relevant documentation to the City of Toronto on May 8, 2019. As per the Protocol, Waterfront Toronto will be responsible for all costs associated with the expropriation process and will indemnify the City in respect of such costs.

39 Commissioners Street is currently owned by Urban Domain Inc. and the current onsite tenant, Soulmutts Toronto Ltd., operates an indoor and outdoor dog daycare and boarding facility within the existing 2-storey heritage listed building. Soulmutts Toronto Ltd. has occupied the space for 2 years. PLFP requires 39 Commissioners Street for transportation and open space uses. The northern portion of the site will be within the new Commissioners Street right-of-way, while the southern portion will be incorporated within a new park (currently referred to as "River Park North"). Once PLFP is complete, it is anticipated that the northern portion of the site will be transferred to Transportation Services and the southern portion will be transferred to Parks, Forestry and Recreation.

The heritage listed building is currently located within the future Commissioners Street right-of-way and needs to be relocated. At this time, it is anticipated that the building will be relocated within the boundaries of the future River Park North and will be retrofitted to serve as public washrooms, with the potential for public programming.

Over the past year Waterfront Toronto has been in negotiations with the landowner to purchase 39 Commissioners Street and has worked with the tenant to find alternative sites for their business. Despite best efforts, the negotiation process has stalled and a parallel expropriation process is now required to ensure construction timelines for the new Commissioners Street, and the broader PLFP project, are maintained.

CONTACT

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SIGNATURE

Nick Simos
Acting Director, Real Estate Services

ATTACHMENTS

Appendix A - Legal Description
Appendix B - Site Map

Appendix A
Legal Description

PIN 21385-0074 (LT)
Part Block 5, Plan 540E, Toronto as in CT479992; City of Toronto

Appendix B
Site Map

