

Application for Approval to Expropriate a Portion of 5791-5793 Yonge Street and 5795 Yonge Street for Public Street Purposes - Stage 1

Date: October 5, 2021

To: General Government and Licensing Committee

From: Executive Director, Corporate Real Estate Management

Wards: 18 - Willowdale

SUMMARY

This report seeks authority to initiate expropriation proceedings for two property interests: one temporary easement in part of the property known municipally as 5795 Yonge Street and; one fee simple interest in part of the property municipally known as 5791-5793 Yonge Street (the "Property Requirements"). The Property Requirements are needed for Transportation Services' construction of a future public street connecting Cummer Avenue to Yonge Street (the "Project").

This is Stage 1 of the expropriation process. Should City Council adopt the recommendations in this report, staff will serve and publish the Notice of Application for Approval to Expropriate on each registered owner. Owners, as defined in the Expropriations Act (the "Act"), will have 30 days to request a hearing into whether the City's proposed taking is fair, sound and reasonably necessary.

City staff may report back to City Council with a Stage 2 report, providing details on property values and other costs, and if a hearing is requested, the report of the Ontario Land Tribunal. The proposed expropriation would only be effected, after adoption by City Council, as approving authority, of the Stage 2 report, by registration of an expropriation plan, which would then be followed by the service of notices as required by the Act.

Before the City could take possession of the expropriated property, offers of compensation based on appraisal reports must be served on each registered owner.

RECOMMENDATIONS

The Executive Director, Corporate Real Estate Management recommends that:

1. City Council authorize the Executive Director, Corporate Real Estate Management, or their designate, to continue negotiations to acquire the property interests set out in Appendix A and Appendix B (the "Property Requirements"), and authorize the initiation of expropriation proceedings for the purposes of constructing a new public street connecting Cummer Avenue to Yonge Street (the "Project").

2. City Council grant authority to the Executive Director, Corporate Real Estate Management, or their designate, to serve and publish the Notices of Application for Approval to Expropriate the Property Requirements, to forward to the Ontario Land Tribunal any requests for inquiries received, to attend the hearing(s) to present the City of Toronto's position, and to report the Inquiry Officer's recommendations to City Council for its consideration.

FINANCIAL IMPACT

The costs to serve and publish the required Notices of Application for Approval to Expropriate, together with any costs related to attendance at the Hearing of Necessity, if any, will be funded from the 2021 - 2030 Council Approved Capital Budget and Plan for Corporate Real Estate Management (C.R.E.M.) under capital project account CCA226-07.

Before proceeding with the expropriation, staff will report to City Council through the General Government and Licensing Committee for approval of the expropriation (the "Stage 2 Report"). The Stage 2 Report will identify the estimated funding and funding source for the fair market value of the Property Requirements, as well as any other anticipated costs including disturbance damages, legal and appraisal costs, land transfer tax costs, and all other associated costs stipulated under the Expropriations Act.

The Chief Financial Officer and Treasurer has been provided the financial impacts associated with this program for review as part of the 2022 budget process.

DECISION HISTORY

In July 2015, City Council approved an Ontario Municipal Board Settlement Offer for the proposed redevelopment of the lands located at 5799 - 5915 Yonge Street (Newtonbrook Plaza). City Council authorized staff to secure the construction of a new public street which would replace the shared driveway at 5791 - 5793 Yonge Street, connecting 5795 Yonge Street to a signalized intersection on Yonge Street.
<http://app.toronto.catmmis/viewAgendaItemHistory.do?item=2015.NY7.37>

A contractual obligation was secured from the owner of 5791 Yonge Street through the Section 37 Agreement (registered on title in 2006), obligating the property owner to convey a future road widening to the City.

In 2005, the Ontario Municipal Board (OMB) now the Ontario Land Tribunal (OLT) approved Zoning By-law No. 756-2006 permitting a residential condominium development at 5791 - 5793 Yonge Street. The development includes a shared driveway connecting 5795 Yonge Street to a signalized intersection on Yonge Street. <http://www.toronto.ca/legdocs/2005/agendas/committees/ny/ny050919/it050.pdf>

The below sets out the decision history related to the expropriation process previously started and approved by City Council for separate property interests related to the Project as seen by the links below.

To facilitate the construction of the new public street, property beyond the Newtonbrook development is required. Some property requirements were expropriated by City Council adoption of Item GL21.11 on April 7 and 8, 2021.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.GL21.11>

City Council on February 2, 3 and 5, 2021, adopted GL20.02, Expropriation of a Portion of 5795 Yonge Street for Public Street Purposes, reauthorizing the initiation of the expropriation for the City to acquire the Required Property Interests.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.GL20.02>

City Council on July 28, 2020, adopted GL14.10, Expropriation of a Portion of 5795 Yonge Street for Public Street Purposes, approving the expropriation for the City to acquire the Property Interests.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.GL14.10>

City Council on July 12, 13, 14 and 15, 2016, adopted GM13.18, Expropriation of a Portion of 5795 Yonge Street for Public Street Purposes, initiating the expropriation for the City to acquire the Required Property Interests.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.GM13.18>

COMMENTS

As outlined in the Decision History, City Council has previously approved the expropriation of separate property interests required for the Project. Staff have now identified new property interests required for the Project: one temporary easement in part of the property known municipally as 5795 Yonge Street; and one fee simple interest in part of the property municipally known as 5791-5793 Yonge Street (the "Property Requirements").

The City requires the Property Requirements to form the creation of a new public street extending from Cummer Avenue to Yonge Street. This new connection will achieve enhanced traffic operations, reliable, high-frequency surface transit along Yonge Street, and improved access to the parking lot for Finch Station and for cyclists in the immediate area.

The new street will be designed using Complete Street principles. Connecting the new public street to the future planned infrastructure west of Yonge Street will provide a grid

network of complete streets that further enhances mobility in the area for pedestrians, cyclists, transit patrons and drivers. This future grid of complete streets will provide more connections for people in the Yonge Street and Cummer Avenue area to transit services and cycling infrastructure, and will allow all road users to access local area destinations without having to rely solely on Yonge Street to do so.

The new public road connection to Yonge Street also supports Phase 2 of the development at 5799-5915 Yonge Street. By proceeding to Phase 2, the City will receive a number of community benefits that have been secured in a Section 37 agreement. Some of the major community benefits include a community recreation facility and parkland.

In particular, the Property Requirements will help accommodate the realignment of water, storm water and sewer service connections, landscaping, other restoration work and to provide a staging area for construction.

Negotiations with the owners to acquire the Property Requirements are ongoing. However, in order to protect the Project construction schedule, authority to initiate expropriation proceedings is requested in the event negotiated agreements are unsuccessful.

CONTACT

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SIGNATURE

Patrick Matozzo
Executive Director, Corporate Real Estate Management

ATTACHMENTS

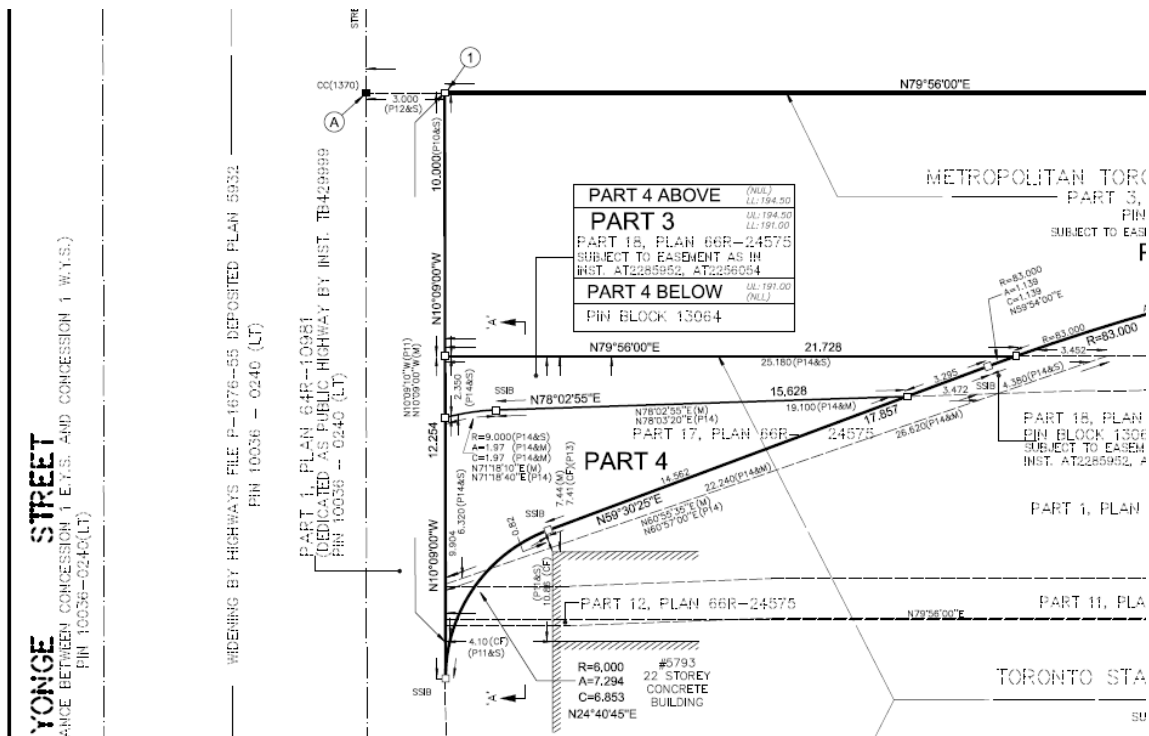
Appendix A - Required Fee Simple Interest
Appendix B - Required Temporary Easement Interest
Appendix C - Location Map / Aerial View with Proposed Right of Way

Appendix A – Required Fee Simple Interest

Fee Simple Interest in part of the property municipally known as 5791-5793 Yonge Street, legally described as being part of the Common Elements of Toronto Standard Condominium Plan No. 2064, illustrated as Parts 3 and 4 on Draft Plan prepared by KRCMAR, DWG NAME 08-024RP0, dated 15 Feb, 2018, excerpted below (full plan on following page):

SCHEDULE			
PART	PLAN	PIN BLOCK	AREA @ EL: 191.00 (m ²)
1	PART OF COMMON ELEMENTS METROPOLITAN TORONTO CONDOMINIUM PLAN No. 805	PART OF PIN BLOCK 11805	425.6
2			34.1
3	PART OF COMMON ELEMENTS TORONTO STANDARD CONDOMINIUM PLAN No. 2064	PART OF PIN BLOCK 13064	35.5
4			55.4

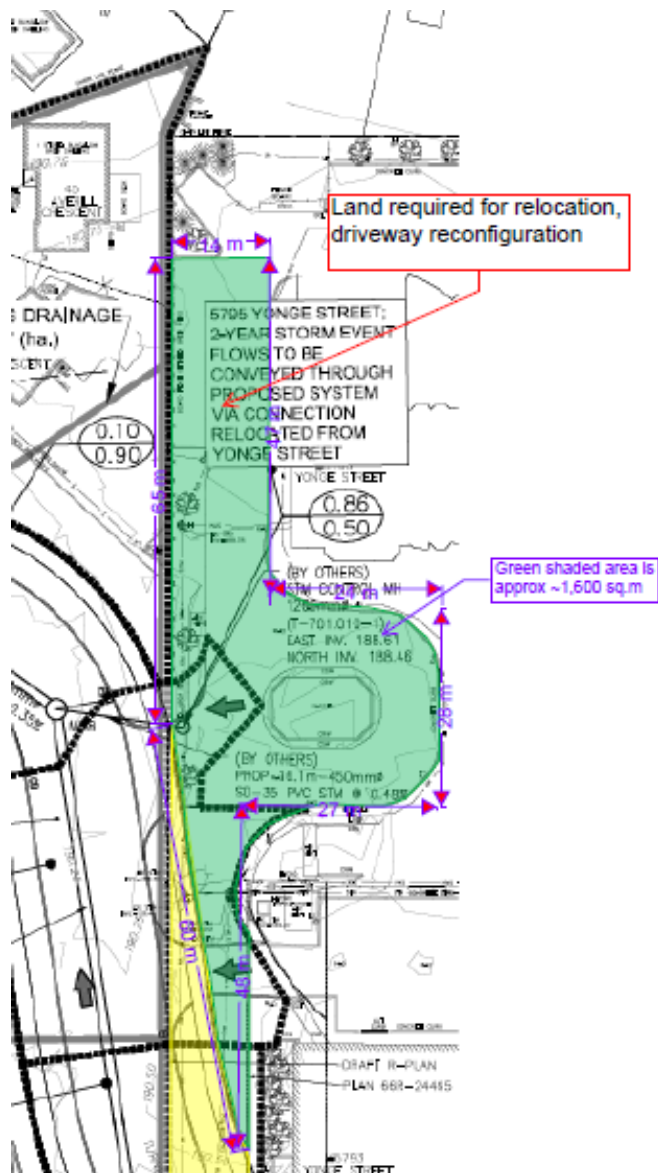
PART 1 – SUBJECT TO EASEMENT AS IN INST. TB333354
 PART 3 – SUBJECT TO EASEMENT AS IN INST. AT2285952, AT2256054
 PARTS 3, 4 – SUBJECT TO EASEMENT AS IN INST. AT2360074, AT1366126



Appendix B - Required Temporary Easement Interest

TEMPORARY EASEMENT over the lands highlighted in GREEN in the drawing below, being part of the property known municipally as 5795 Yonge Street, legally described as part of the Common Elements of Metro Toronto Condominium Plan No. 805, to facilitate the construction of a public street on adjacent City-owned land and all works ancillary thereto, including without limitation, the disconnection, relocation and re-connection of water, storm water and sanitary sewer service connections, alterations to hard and soft landscaping, re-grading and restoration work and the right to enter, occupy, and store all vehicles, materials, machinery, tools and equipment necessary.

TERM: 8 weeks, on 30 days prior notice to the registered owner



Appendix C - Location Map / Aerial View with Proposed Right of Way

