



**STAFF REPORT
ACTION REQUIRED**
with Confidential Attachment

North York City Centre Service Road – Application for Approval to Expropriate 49 Sheppard Avenue East and 14 to 24 Bonnington Place

Date:	June 13, 2011
To:	Government Management Committee
From:	Chief Corporate Officer and General Manager, Transportation Services
Wards:	Ward 23 – Willowdale
Reason for Confidential Information:	This report is about a proposed or pending land acquisition by the City or one of its agencies, boards or commissions and deals with litigation or potential litigation that affects the City or one of its agencies, boards or commissions.
Reference Number:	P:\2011\Internal Services\Re\Gm11023re (AFS 13953)

SUMMARY

The purpose of this report is to seek authority to acquire the properties municipally known as 49 Sheppard Avenue East, 14, 16, 18, 20, 22 and 24 Bonnington Place by initiating the expropriation process and by allocating the necessary funds in the 2011 Capital Budget. These properties are required for the North York City Centre Service Road (“NYSR”). This section of the NYSR is one of the last to be completed.

RECOMMENDATIONS

The Chief Corporate Officer and the General Manager, Transportation Services recommend that:

1. City Council grant authority to initiate the expropriation process for the properties known municipally as 49 Sheppard Avenue East, 14, 16, 18, 20, 22 and 24 Bonnington Place;
2. City Council grant authority to serve and publish Notices of Application for Approval to Expropriate the properties known municipally as 49 Sheppard Avenue East, 14, 16, 18, 20, 22 and 24 Bonnington Place, to forward to the Chief Inquiry Officer any requests for hearing that are received, to attend the hearing to present the City's position and to report the Inquiry Officer's recommendations to City Council for its consideration.

3. In the event any portion of the properties identified in recommendations 1 and 2 above is acquired by the City and later determined to be surplus to the City's needs, the former owner be given the opportunity to repurchase the property on terms satisfactory to City Council or the City official to whom City Council may have delegated approval authority for such disposal.
4. The 2011 Capital Budget and 2012 – 2020 Capital Plan for Transportation Services, North Yonge Centre project (CTP800-8) be amended as detailed in Confidential Attachment 1.
5. This report be forwarded to the Budget Committee for consideration.
6. City Council authorize the public release of the confidential information in Attachment 1 once the transactions have closed if the City purchases the properties or, in the event expropriation is required, once there has been a final determination of the compensation payable to the owner by arbitration or appeal or, if settled, in the discretion of the City Solicitor.

Financial Impact

The proposed acquisition of these properties will result in expenditures for the purchase price or market value of the properties as well as land transfer tax and other costs, all detailed in confidential Attachment 1. These expenditures will be funded from contributions obtained through Section 37 agreements which have been secured specifically for the acquisition of properties required for the NYSR. As such, the recommended budget increase will have a \$0 net impact to the 2011 Approved Capital Budget and 2012 - 2020 Capital Plan for Transportation Services. It is anticipated that negotiations will be finalized in 2012 and only an initial deposit will be required in 2011. Details of the recommended 2011 – 2020 Capital Budget and Plan increase and sources of funding are provided in Confidential Attachment 1.

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

DECISION HISTORY

The “Strategy for the Implementation of the North York Centre Plan Service Road-North York Centre”, North York Community Council Report No. 8, Clause No. 20, being a joint report (July 10, 1998) from the Commissioner of Works and Emergency Services and the Commissioner of Urban Planning and Development Services was approved by City Council on July 29, 30 and 31, 1998. The Report included the following recommendations:

“a property acquisition strategy and reporting mechanism be developed to ensure a continuance of a program to initiate the construction of the Service Road in stages and that the matter be referred to the Property Division of the Corporate Services Department for implementation;” and

“the property acquisition strategy include the powers granted to the City under the Expropriations Act to ensure that contiguous land assemblies are successfully acquired in a reasonable time frame to enable the annual road construction program to be implemented.”

In accordance with this property acquisition strategy, the City has acquired a number of properties to construct the NYSR. The proposed acquisition of the properties known municipally as 49 Sheppard Avenue East, 14, 16, 18, 20, 22 and 24 Bonnington Place (collectively the "Bonnington Properties") is in accordance with this property acquisition strategy.

ISSUE BACKGROUND

A plan to construct the NYSR was adopted to facilitate new development and to provide new opportunities for development in the North York Centre area. An environmental assessment (the “EA”) was completed in May, 1993 which addressed the alignment for the NYSR in the uptown area. The EA was approved by the Ministry of Environment & Energy on December 14, 1993 and the road is being constructed in phases as development proceeds.

COMMENTS

The Bonnington Properties are all owned or controlled by one family (collectively referred to as the "Owner") and are required for the NYSR, although this section has not proceeded to date. In fact the alignment in this location is currently under review. Recently, the Owner approached City staff with a development proposal for the Bonnington Properties. Discussions have been held with the Owner with respect to acquisition by the City and it is considered appropriate to authorize staff to initiate the expropriation process, while continuing to negotiate with the Owner for the acquisition of the Bonnington Properties, in order to protect the identified alignment for the NYSR.

The Owner also own properties north of Finch Avenue on Greenview Avenue, portions of which will also be required for the NYSR (the "Greenview Properties") and adjacent to two City owned parcels which were purchased for the NYSR. The Owner has offered to purchase those portions of the City owned properties surplus to the NYSR in exchange for the portions of the Owner's properties which the City requires for the NYSR. Because the City owned properties are larger than the portions of the Owner's lands required by the City there is a net benefit to the City in this transaction. City staff are exploring this with the Owner subject to following the usual delegated processes for acquisition and disposal of properties.

As part of the discussions, the Owner has also requested that in the event the review of the NYSR alignment in this location identifies property that is later determined to be surplus to the City's needs, then the Owner be given the first opportunity to purchase the lands, similar to the rights under s. 42 of the Expropriations Act. This is not an unreasonable request under the circumstances if it is in the context of an appropriate development proposal, and it is recommended that the former owner be given the opportunity to

repurchase the property on terms satisfactory to City Council or the City official to whom City Council may have delegated approval authority for such disposal, in consultation with the Chief Planner.

Finally, at least one of the Bonnington properties is the subject of an outstanding Official Plan appeal to the Ontario Municipal Board and one or more related prosecutions. It is hoped that as part of the discussions these matters can also be resolved with the Owner.

Funding to acquire the Bonnington Properties is available as a result of Section 37 agreements for developments that have occurred within the North York City Centre Secondary Plan. The proposed Section 37 funding to acquire the Bonnington Properties was all secured for the specific purpose of acquiring properties for the NYSR.

CONCLUSION

This section of the NYSR is one of the last to be completed. If the Owner were to develop the Bonnington Properties it would preclude the preferred alignment in this neighbourhood. As a result, staff are recommending that the expropriation process be initiated, while staff continue to negotiate with the Owner for the acquisition of the Bonnington Properties and a potential land exchange for the Greenview Properties and that the necessary funds be allocated in the 2011 - 2020 Capital Budget and Plan of Transportation Services.

CONTACT

Joe Casali
Director, Real Estate Services
Tel: (416) 392-7202
Fax: (416) 392-1880
jcasali@toronto.ca

Myles Currie
Director, Transportation Services
Tel: (416) 392-5372
Fax: (416) 397-5011
mcurrie@toronto.ca

SIGNATURE

Bruce Bowes, P. Eng.
Chief Corporate Officer

Andrew Koropeski, P. Eng.
Acting General Manager,
Transportation Services

ATTACHMENTS

Attachment 1 - Confidential Information
Appendix "A" – Property Descriptions
Appendix "B" – Property Location Map