

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON MARCH 24, 2015
FROM:	JOHN BRAAM, P. ENG. MANAGING DIRECTOR ENVIRONMENTAL & ENGINEERING SERVICES AND CITY ENGINEER
SUBJECT:	EXPROPRIATION OF LANDS FANSHAWE PARK RD EAST WIDENING PROJECT PHASE II – TS1475-2

RECOMMENDATION

That, on the recommendation of the Managing Director, Environmental and Engineering Services and City Engineer, on the advice of the Director, Roads and Transportation and the Manager of Realty Services, approval **BE GIVEN** to the expropriation of lands as may be required for the Fanshawe Park Road East Widening and Improvements Project - Phase II, between Adelaide Street North and McLean Drive, and that the following actions **BE TAKEN**:

- a) application be made by The Corporation of the City of London as Expropriating Authority to the Council of The Corporation of the City of London as approving authority for the approval to expropriate the lands required for Fanshawe Park Road East Widening and Improvements - Phase II - between Adelaide Street North and McLean Drive;
- b) The Corporation of the City of London serve and publish notice of the above application in accordance with the terms of the *Expropriations Act*;
- c) The Corporation of the City of London forward to the Chief Inquiry Officer any requests for a hearing that may be received and report such to the Council of The Corporation of the City of London for its information; and
- d) the attached Bylaw **BE INTRODUCED** at the Municipal Council meeting on March 31, 2015 to authorize the foregoing and direct the Civic Administration to carry out all necessary administrative actions.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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Environmental and Transportation Committee – April 6, 2009 – Addendum to Environmental Study Report

Environment and Transportation Committee – July 20, 2009 - Appointment of Design Engineer

Civic Works Committee – August 25, 2014 –Detailed Design and Tendering Appointment of Consulting Engineer, Fanshawe Park Road Widening – Adelaide Street North to McLean Drive

BACKGROUND

At its meeting held on April 2, 2009, Municipal Council approved and accepted the Schedule “C” Municipal Class Environmental Assessment and Fanshawe Park Road Improvements Environmental Study Report. The Environmental Study Report was subsequently placed on public record for a thirty (30) day review period during which no Part 2 Orders were received. The project environmental assessment is thereby complete. The report study area included properties fronting and backing onto the road allowance throughout the length of the corridor from Adelaide Street North to east of Highbury Avenue as well as adjacent natural areas. The entire project is to follow a phased approach. The second phase of this project requires several partial property acquisitions within the corridor along with easements associated with the relocation of utilities.

Negotiations commenced in the Spring of 2014 and written offers have been rejected by the remaining three property owners. In order to meet the project and associated construction timelines, it is necessary to commence expropriation proceedings. The Civic Administration will continue negotiations with the property owners in an effort to amicably acquire these properties.

Anticipated Construction Timeline

Property requirements are to be secured for Spring 2016 construction.

A location map is attached as Schedule “A” for the Committee’s information.

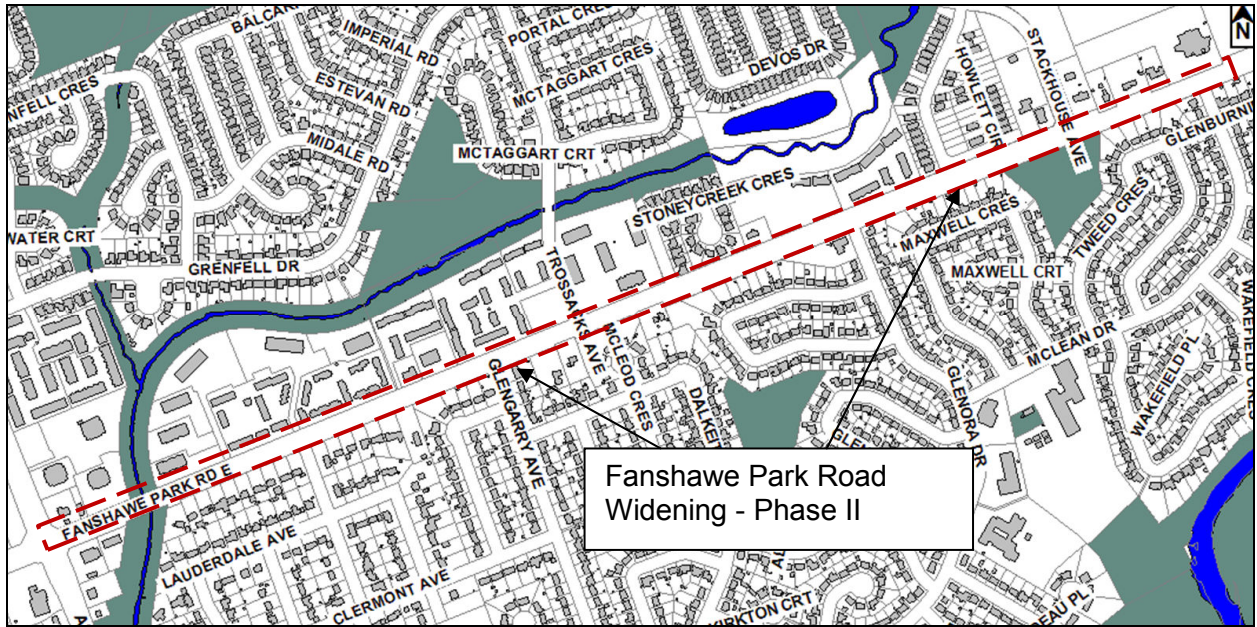
PREPARED BY:	REVIEWED AND CONCURRED BY:
BILL WARNER MANAGER of REALTY SERVICES	EDWARD SOLDO DIRECTOR, ROADS AND TRANSPORTATION
RECOMMENDED BY:	
JOHN BRAAM. P. ENG. MANAGING DIRECTOR ENVIRONMENTAL AND ENGINEERING SERVICES AND CITY ENGINEER	

March 13, 2015
Attach.

cc: Gary Irwin, Division Manager and Chief Surveyor
Doug MacRae, Division Manager
David G. Mounteer, Solicitor II

Schedule "A"

Fanshawe Park Road East – Phase II



APPENDIX "A"

DESCRIPTION OF LANDS TO BE EXPROPRIATED FOR FANSHAWE PARK ROAD EAST WIDENING AND IMPROVEMENTS - BETWEEN ADELAIDE STREET NORTH AND MCLEAN DRIVE

The following lands are required in fee simple:

- Parcel 1. Part of Lot 9, Concession 5, in the geographic Township of London, now in the City of London, County of Middlesex designated as Part 7 on Plan 33R-17525 being part of PIN 08085-0037(LT).
- Parcel 2. Part of Lot 9, Concession 5, in the geographic Township of London, now in the City of London, County of Middlesex designated as Parts 10, 11 & 12 on Plan 33R-17525 being part of PIN 08085-0036(LT).
- Parcel 3. All of Block 'I', Registered Plan No. 996 in the City of London, County of Middlesex being all of PIN 08085-0594(LT).

APPENDIX "B"

EXPROPRIATIONS ACT, R.S.O. 1990, CHAPTER E.26

NOTICE OF APPLICATION FOR APPROVAL TO EXPROPRIATE LAND

Expropriations Act

IN THE MATTER OF an application by The Corporation of the City of London for approval to expropriate land being Part of Lot 9, Concession 5 in the geographic Township of London, now in the City of London, County of Middlesex, Ontario; designated as Parts 7 and 10 to 12 Reference Plan 33R-17525; and all of Block 'I', Registered Plan No. 996 in the City of London, County of Middlesex. These properties are for the purpose of the Fanshawe Park Road East road widening and improvements between Adelaide Street North and McLean Drive.

NOTICE IS HEREBY GIVEN that application has been made for approval to expropriate the land described as follows:

- Parcel 1. Part of Lot 9, Concession 5, in the geographic Township of London, now in the City of London, County of Middlesex designated as Part 7 on Plan 33R-17525 being part of PIN 08085-0037(LT).
- Parcel 2. Part of Lot 9, Concession 5, in the geographic Township of London, now in the City of London, County of Middlesex designated as Parts 10, 11 & 12 on Plan 33R-17525 being part of PIN 08085-0036(LT).
- Parcel 3. All of Block 'I', Registered Plan No. 996 in the City of London, County of Middlesex being all of PIN 08085-0594(LT).

Any owner of land in respect of which notice is given who desires an inquiry into whether the taking of such land is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority shall so notify the approving authority in writing,

- (a) in the case of a registered owner, served personally or by registered mail within thirty days after the registered owner is served with the notice, or, when the registered owner is served by publication, within thirty days after the first publication of the notice;
- (b) in the case of an owner who is not a registered owner, within thirty days after the first publication of the notice.

The approving authority is:

The Council of The Corporation of the City of London
City Hall
300 Dufferin Avenue
P.O. Box 5035
London ON N6A 4L9

The expropriating authority is:

THE CORPORATION OF THE CITY OF LONDON

CATHARINE SAUNDERS
CITY CLERK

Notes:

1. The *Expropriations Act, R.S.O. 1990, c. E.26*, provides that:
 - (a) where an inquiry is requested, it shall be conducted by an Inquiry Officer appointed by the Attorney General;
 - (b) the Inquiry Officer,
 - i) shall give every party to the inquiry an opportunity to present evidence and argument and to examine and cross-examine witnesses, either personally or by his counsel or agent, and
 - ii) may recommend to the approving authority that a party to the inquiry be paid a fixed amount for his costs of the inquiry not to exceed \$200 and the approving authority may in its discretion order the expropriating authority to pay such costs forthwith.
2. "Owner" and "Registered Owner" are defined in the *Act* as follows:

"Owner" includes a mortgagee, tenant, execution creditor, a person entitled to a limited estate or interest in land, a guardian of property, and a guardian, executor, administrator or trustee in whom land is vested;

"Registered Owner" means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the proper land registry or sheriff's office, and includes a person shown as a tenant of land on the last revised assessment roll;
3. The Expropriating Authority, each owner who notifies the approving authority that he desires a hearing in respect of the lands intended to be expropriated and any owner added as a party by the inquiry officer are parties to the inquiry.

This notice first published on the day of , 2015.

APPENDIX "C"

Bill No.

By-law No.

A bylaw to authorize and approve an application to expropriate lands in the City of London, County of Middlesex, for the Fanshawe Park Road East Road Widening and Improvements Project, between Adelaide Street North and McLean Drive.

WHEREAS The Corporation of the City of London has made application to the Municipal Council of The Corporation of the City of London for approval to expropriate lands for the Fanshawe Park Rd. E. road widening and improvements between Adelaide Street North and McLean Drive;

THEREFORE The Corporation of the City of London, as the expropriating authority, enacts as follows:

1. An application be made by The Corporation of the City of London as expropriating authority, to the Council of The Corporation of the City of London as approving authority, for approval to expropriate lands for the Fanshawe Park Road East Road Widening and improvements Project between Adelaide Street North and McLean Drive, which lands are more particularly described in Appendix "A" of this bylaw.
2. The Corporation of the City of London serve and publish notice of the application referred to in Section 1 of this bylaw in the form attached hereto as Appendix "B", being the "Notice of Application for Approval to Expropriate Lands," in accordance with the requirements of the *Expropriations Act*.
3. The Corporation of the City of London forward to the Chief Inquiry Officer, any requests for a hearing that may be received in connection with the notice of this expropriation and report such to the Council of The Corporation of the City of London for its information.
4. The Civic Administration be hereby authorized to carry out all necessary administrative actions in respect of the said expropriation.
5. This bylaw comes into force on the day it is passed.

PASSED in Open Council on _____.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading -
Second Reading -
Third Reading -