

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON APRIL 11, 2017
FROM:	MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER AND ACTING CITY MANAGER JOHN FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	EXPROPRIATION OF LAND IMPLEMENTATION OF THE MEDWAY VALLEY TRAIL MASTER PLAN NORTH OF FANSHAWE PARK ROAD

RECOMMENDATION

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer and Acting City Manager, and the Manager Director, Planning and City Planner, on the advice of the Manager of Realty Services, approval **BE GIVEN** to the expropriation of a permanent easement interest in lands to complete the permanent pathway, as approved by Council – Medway Valley Trail North – Option 5B, Further Enhanced Accessibility and Community Connections, 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 land required for the implementation of the Medway Valley Trail Master Plan North of Fanshawe Park Road;
- 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 (Schedule “C”) **BE INTRODUCED** at the Council meeting on April 18, 2017 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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- August 30, 2004 Environment & Transportation Committee Report that recommended proceeding with the 30 day Environmental Assessment Addendum review period, noting that the concerns of S. Levin (specific environmental concerns) and the Attawandaron Residents Association (requesting asphalt pathway links) has been addressed.
- June 7, 2010 Planning Committee report regarding environmental monitoring of Phase II of the Medway trunk sanitary sewer construction, which noted that the maintenance access road was gravel, except where it entered the valley and the steeper slopes warranted an asphalt surface.

April 9, 2013

Planning and Environment Committee report recommending that the North Medway Valley Heritage Forest Environmentally Significant Area Trail Master Plan be accepted and approving "Trail Option 5B – Enhanced Accessibility".

BACKGROUND

In April 2013, Civic Administration recommended to Council to approve trail Option 5B with enhancements based on considering all background data and history, recent trail planning design standards, and the intent of the recommendation of the EAA, the expectations of the community, the sensitivities of the Valley ecosystem, the practicalities of managing ESAs in urban settings and cost considerations. This trail option was ultimately approved by Council with some modifications to be undertaken to further enhance accessibility (see Schedule "A").

Since May 2013, staff have implemented all other components of the Master Plan, including the approved "alternate trail route" around the property in question to provide the minimal north/south linkage. This part of the trail is not "accessible" and located closer to neighbouring homes than the city typically constructs. However, the Medway Valley Master Plan north of Fanshawe Road remains incomplete due to the City not owning or having easement rights required to complete the remaining trail Option 5B through the valley on private lands which is approximately 77 metres in length and approximately 0.303 acres in size (see part 2 in Schedule "B").

Over the past several years, Realty Services was engaged by Environmental and Parks Planning to acquire land rights for the purpose of the public trail system as directed by Council. Despite best efforts made and providing various alternatives and proposals for consideration, the property owner remains unwilling to grant the land rights to the City to complete the pathway link and master plan works as approved by Council.

CONCLUSION

As a result, Civic Administration seeks approval from Council to proceed with expropriation of the permanent easement rights to secure the necessary land rights to complete the permanent pathway as part to the Medway Valley Trail North Master Plan.

The Medway Valley Trail North – Option 5B plan map and reference plan are attached as Schedules “A” and “B” for the Committee’s information.

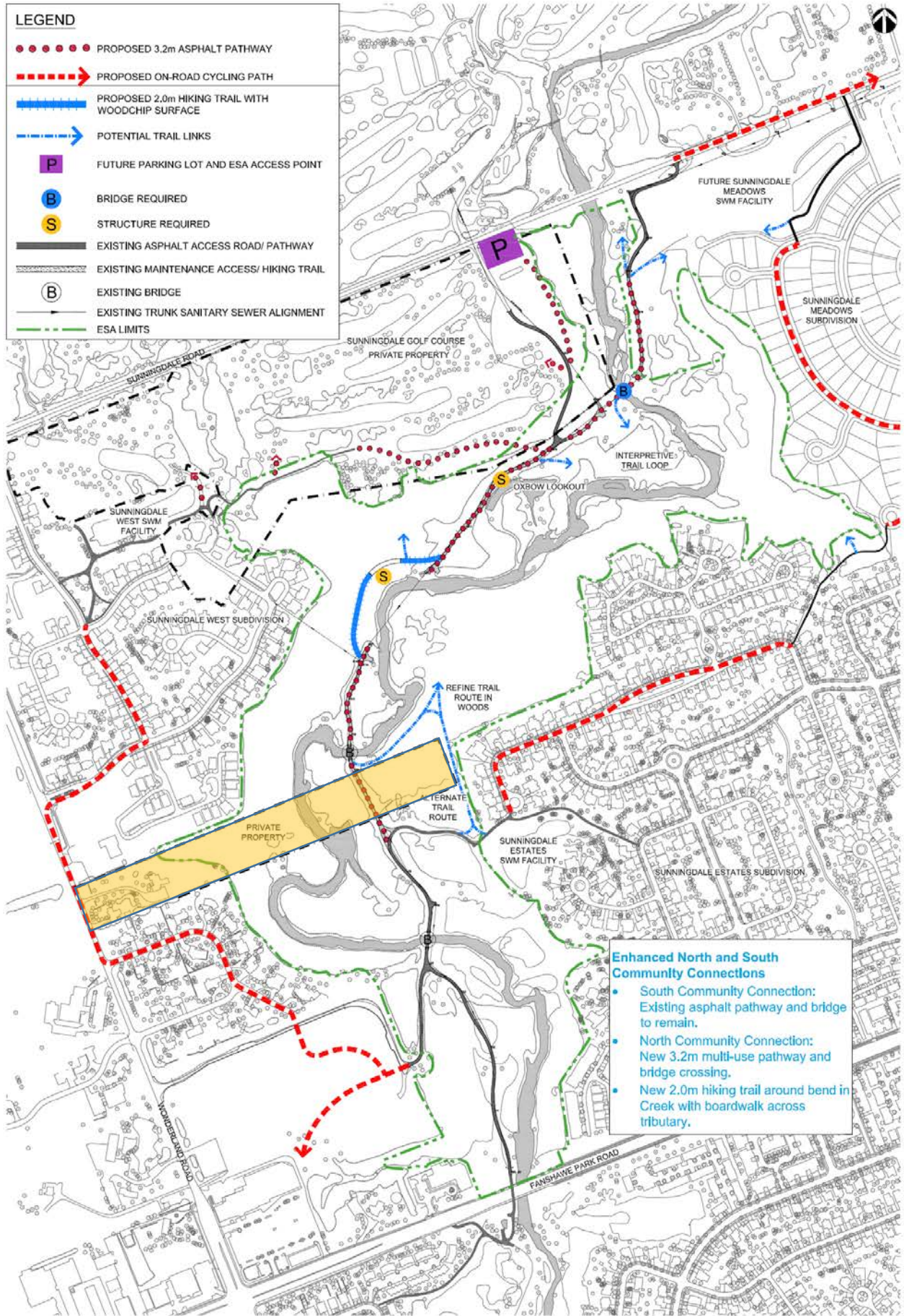
PREPARED BY:	REVIEWED AND CONCURRED BY:
BILL WARNER MANAGER OF REALTY SERVICES	ANDREW MACPHERSON MANAGER, ENVIRONMENTAL AND PARKS PLANNING
RECOMMENDED BY:	RECOMMENDED BY:
JOHN FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER	MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER AND ACTING CITY MANAGER

March 29, 2017
Attach.

File No. P-2109 (C)

cc: David G. Munteer, Solicitor II

Schedule "A"

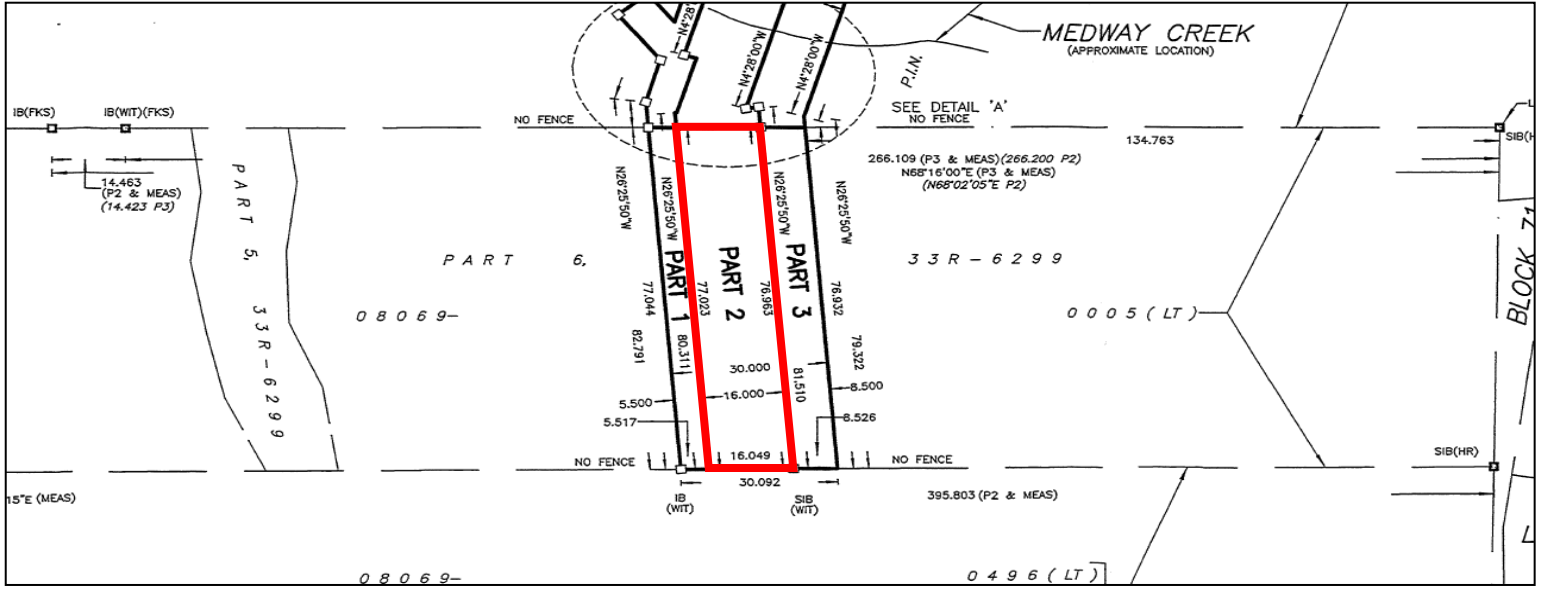


Medway Valley Trail North of Fanshawe Park Road 5B - Further Enhanced Accessibility & Community Connections

April 2013



Schedule "B" – Permanent Easement to be obtained over Part 2 on Reference Plan 33R-16853



Aerial of Property



Location of permanent easement. For general illustration purposes only.

SCHEDULE "C"

Bill No.
2017

By-law No. L.S.P.-

A by-law to authorize and approve an application to expropriate a permanent easement to complete the permanent pathway, to the City's accessibility standards as approved by Council – Medway Valley Trail North – Option 5B, Further Enhanced Accessibility and Community Connections for the implementation of the Medway Valley Trail Master Plan North of Fanshawe Park Road

WHEREAS The Corporation of the City of London has made application to the Council of The Corporation of the City of London for approval to expropriate a permanent easement interest in lands required for the Medway Valley Trail Master Plan North of Fanshawe Park Road ;

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 the permanent easement interest in lands required for the Medway Valley Master Plan North of Fanshawe Park Road; which land is more particularly described in attached Appendix "A" of this by-law.
2. The Corporation of the City of London as Expropriating Authority serve and publish notice of the application referred to in Section 1 of this by-law 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 as Expropriating Authority forward to the Chief Enquiry 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 by-law 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 -

APPENDIX "A"

To By-law L.S.P.-_____

**DESCRIPTION OF PERMANENT EASMENT INTEREST IN LANDS CERTAIN TO BE
EXPROPRIATED FOR THE MEDWAY VALLEY TRAIL MASTER PLAN NORTH OF
FANSHAWE PARK ROAD**

The following land is required in permanent easement interest certain:

Parcel 1. Part of Lot 19, RCP 1028 in the City of London and County of Middlesex designated as Part 2 on plan 33R-16853 being part of PIN 080690005(LT)

APPENDIX "B"

To By-law L.S.P.-_____

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 permanent easement interest in lands certain being Part of Lot 19, RCP 1028 in the City of London and County of Middlesex designated as Part 2 on plan 33R-16853 being part of PIN 080690005(LT)

for the purpose of the Medway Valley Trail Master Plan North of Fanshawe Park Road.

NOTICE IS HEREBY GIVEN that application has been made for approval to expropriate a permanent easement interest in lands certain described as follows:

Parcel 1. Part of Lot 19, RCP 1028 in the City of London and County of Middlesex designated as Part 2 on plan 33R-16853 being part of PIN 080690005(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 _____, 2017.