


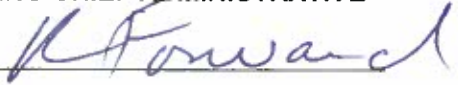
TO: GENERAL COMMITTEE

SUBJECT: EXPROPRIATION OF VARIOUS PROPERTIES – FERNDALE DRIVE
NORTH / CUNDLES ROAD EAST / BERNICK DRIVE

PREPARED BY AND KEY CONTACT: ANDREW MILLS, SENIOR REAL ESTATE SERVICES OFFICER, X5051

SUBMITTED BY: I. PETERS, DIRECTOR OF LEGAL SERVICES

GENERAL MANAGER APPROVAL: CAROLYN GLASER, ACTING GENERAL MANAGER 

CHIEF ADMINISTRATIVE OFFICER APPROVAL: R. FORWARD, MBA, M.Sc., P. ENG, ACTING CHIEF ADMINISTRATIVE OFFICER 

RECOMMENDED MOTION

1. That the Director of Legal Services be directed to commence expropriation proceedings against the current owners of the required lands to acquire twelve fee simple interests for the purpose of:
 - a) Widening of Ferndale Drive North for road improvements and sewer and water installation on lands municipally known as 461 Dunlop Street West, 100, 97, 96, 92, 88, 84, 80 and 26 Ferndale Drive North and legally described as Part of Lot 3, Plan 220 and Part of Lot 24, Concessions 6 and 7, City of Barrie, County of Simcoe and designated as Parts 11, 12, 15, 21, & 33 on Plan 51R-33865 and Parts 1, 2, 3, 4, 5, 6, 7 & 9 on Plan 51R-37095.
 - b) Widening and reconstruction of Cundles Road East to improve traffic flow on lands municipally known as 243 and 273 Cundles Road East and legally described as Part of Lot 21, Concession 3, City of Barrie, County of Simcoe and designated as Parts 3, 4 & 5 on a Draft Reference Plan.
 - c) Widening of Duckworth Street to facilitate a turning lane on land municipally known as 2 Bernick Drive and legally described as Part of Common Element, Simcoe Condominium Plan No. 15, City of Barrie, County of Simcoe and designated as Part 1 on Plan 51R-38078.
2. That the City Clerk be directed to execute any forms that may be requisite to expropriate the said lands identified as part of this application to the municipality's approval authority under the *Expropriations Act*.
3. That staff be directed to serve and publish the "Notice of Application for Approval to Expropriate" and to forward any requests for inquiries received, pursuant to the "Notice of Application for Approval to Expropriate" to the Chief Inquiring Officer and the Chief Inquiring Officer be requested to report to Council with respect to any such request.
4. That the Director of Legal Services be delegated the authority to:
 - a) Settle the expropriations, and
 - b) Execute any negotiated agreements;up to a maximum of \$640,000.00 and that the Mayor and the City Clerk be authorized to execute all associated and required documents in a form approved by the Director of Legal Services.

PURPOSE & BACKGROUND

5. This Staff Report is being put forward to provide staff with the authorization to proceed with expropriation of the land to ensure acquisition of the required properties prior to the end of 2012 to facilitate construction timelines.
6. a) The Ferndale Drive reconstruction project between Edgehill Drive and Tiffin Street received Council approval in October 2003 by motion 03-G-509.
- In order to proceed with the reconstruction of Ferndale Drive North between Dunlop Street West and Tiffin Street which includes four traffic lanes, sidewalks and bike lanes, the City needed to acquire property interests from 21 individual properties.
- Of the 21 properties, City staff have successfully negotiated 12 agreements, leaving 9 outstanding. Although negotiations are ongoing, the remaining 9 property owners have been unwilling to finalize negotiations with the City. Appendix "A" provides illustrations of the lands required.
- b) The Cundles Road East reconstruction project between St. Vincent and Duckworth Street received Council approval in June 2003 by motion of 03-G-413.
- To facilitate the reconstruction of Cundles Road East which includes 5 traffic lanes from St. Vincent to Duckworth Street and bike lanes from Livingstone Street East to Duckworth Street, the City must acquire property interests from 2 separate properties.
- Negotiations are ongoing, however both properties have been identified as having a lien registered against the title. In order to acquire the properties lien free, an expropriation may be required. Using this method of acquisition, the properties are transferred to the City free and clear of the lien encumbrance. Appendix "B" provides illustration of the lands required.
- c) The Duckworth Street improvements between Rose Street and Cundles Road East received Council approval in June 2007 by motion of 07-G-366.
- Duckworth Street South of Hwy 400 will be reconstructed with 6 through lanes reducing to 4 through lanes between Rose Street and Bell Farm Road with turning lanes at intersections, as appropriate. In order to complete a turning lane as approved, the City must acquire one property interest.
- Negotiations have been ongoing since October 2010. Legal Services staff have negotiated an Agreement of Purchase and Sale with Ball & Montgomery, the management company of the affected property. The agreement is conditional upon the sale being ratified by 80% of the Condominium Corporation unit owners and registered encumbrancers, as required by Section 124 of the Condominium Act. In the event the condition in the agreement is not satisfied, an expropriation will be the only mechanism available to acquire the property. Appendix "C" provides illustration of the land required.
7. Legal Services staff will continue to attempt negotiations with the owners of the required properties until such time as expropriation proceedings have been completed and it is no longer feasible to negotiate the required acquisitions.

ANALYSIS

8. Staff have been requested to obtain the required acquisitions as soon as possible to facilitate construction timelines and relocation of utilities.

9. The only way in which the required lands can be obtained with certainty is to immediately commence expropriation.

ENVIRONMENTAL MATTERS

10. There are no environmental matters related to the recommendation.

ALTERNATIVES

11. There is one alternative available for consideration by General Committee:

Alternative #1 General Committee could reject the recommendation and direct staff to continue to complete these transactions through negotiations.

This alternative is not recommended given the City's immediate requirement for these lands and the fact that attempted negotiations have been unsuccessful.

FINANCIAL

13. a) The Ferndale Drive North capital project for the portion of Ferndale Drive North between Dunlop Street West and Tiffin Street was approved as part of the 2009 Capital Plan. The estimated funds required to purchase these properties including all legal and other costs (\$500,000.00) are available in account 14-16-2510-0308.
- b) The Cundles Road East capital project for the portion between St. Vincent and Duckworth Street was approved as part of the 2011 Capital Plan. The estimated funds required to purchase these properties including all legal and other costs (\$105,000.00) are available in account 14-16-2510-0544.
- c) The Duckworth Street capital project for the portion between Rose Street and Cundles Road East was approved as part of the 2011 Capital Plan. The estimated funds required to purchase these properties including all legal and other costs (\$35,000.00) are available in account 14-16-2510-0469.

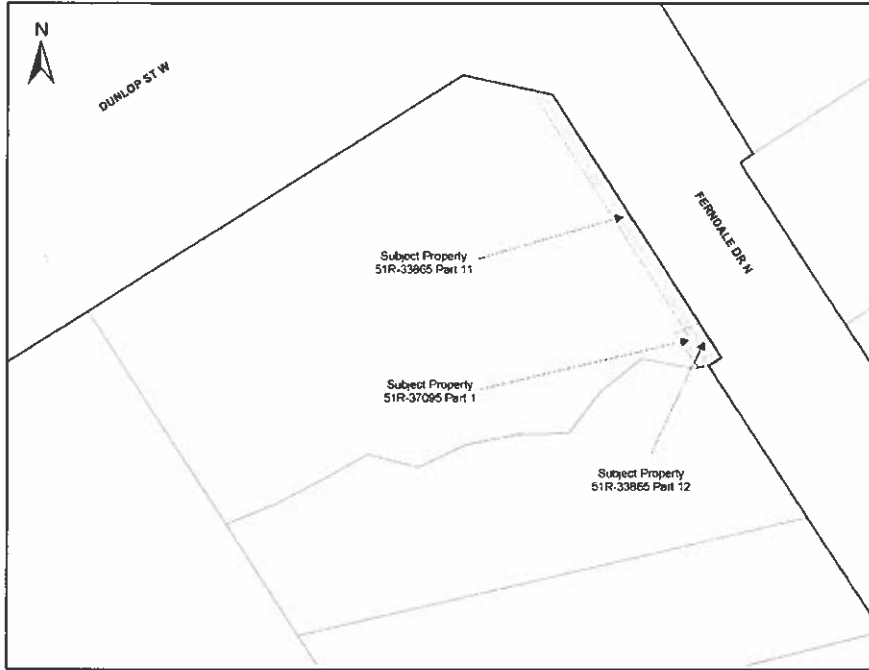
LINKAGE TO COUNCIL STRATEGIC PRIORITIES

14. The recommendation(s) included in this Staff Report are not specifically related to the goals in the 2010-2014 City Council Strategic Plan.

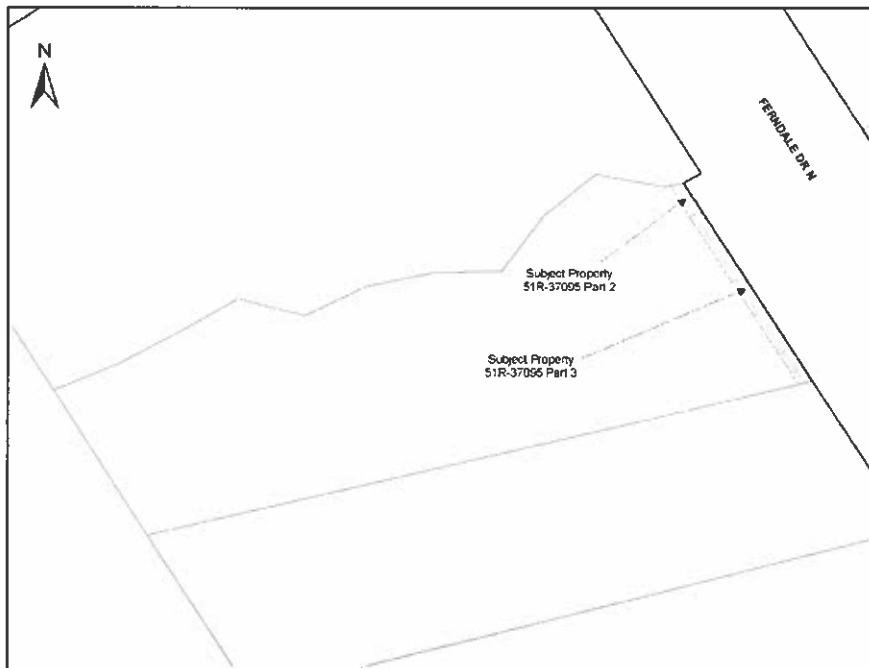
APPENDIX "A"

a)

461 Dunlop Street West



100 Ferndale Drive North



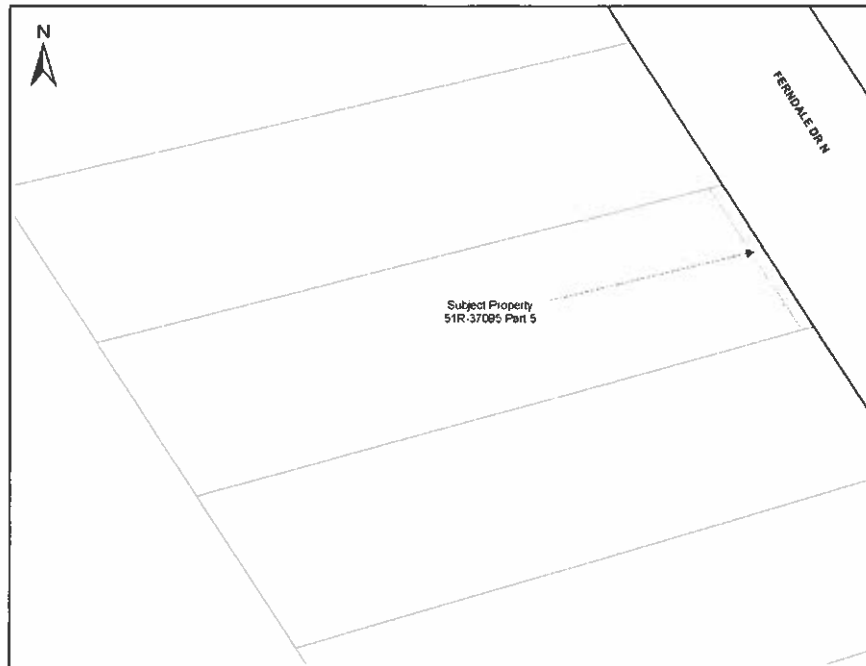
97 Ferndale Drive North



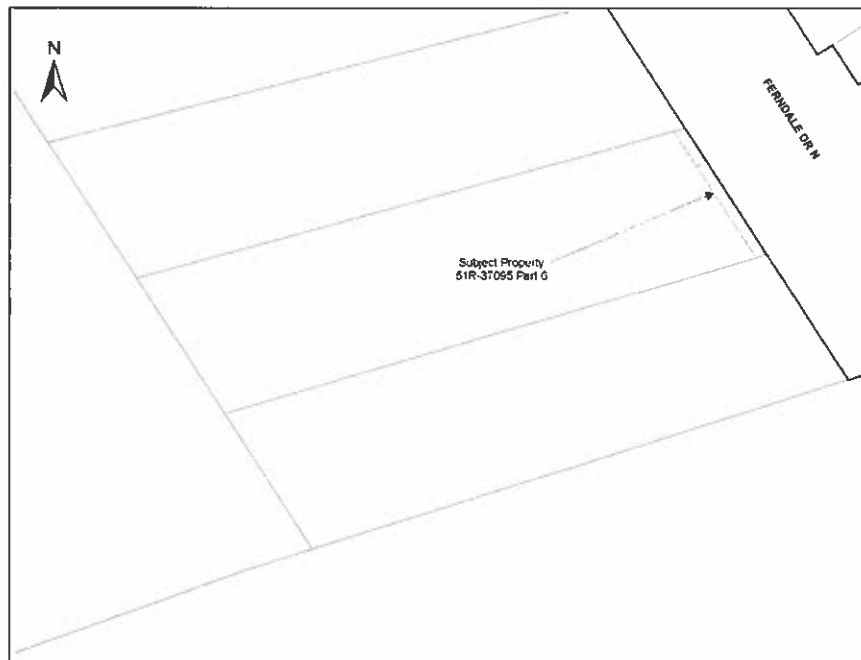
96 Ferndale Drive North



92 Ferndale Drive North



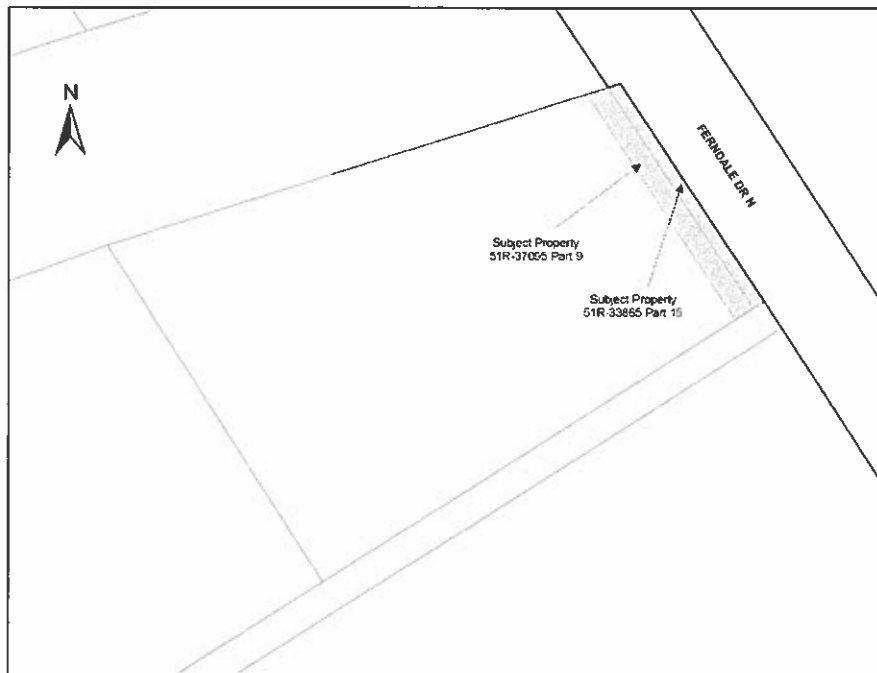
88 Ferndale Drive North



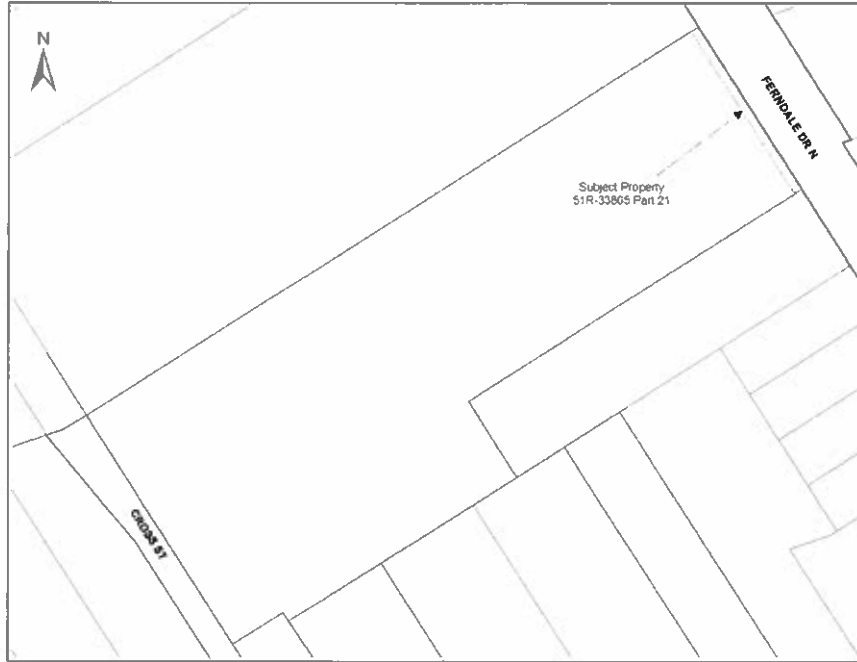
84 Ferndale Drive North



80 Ferndale Drive North



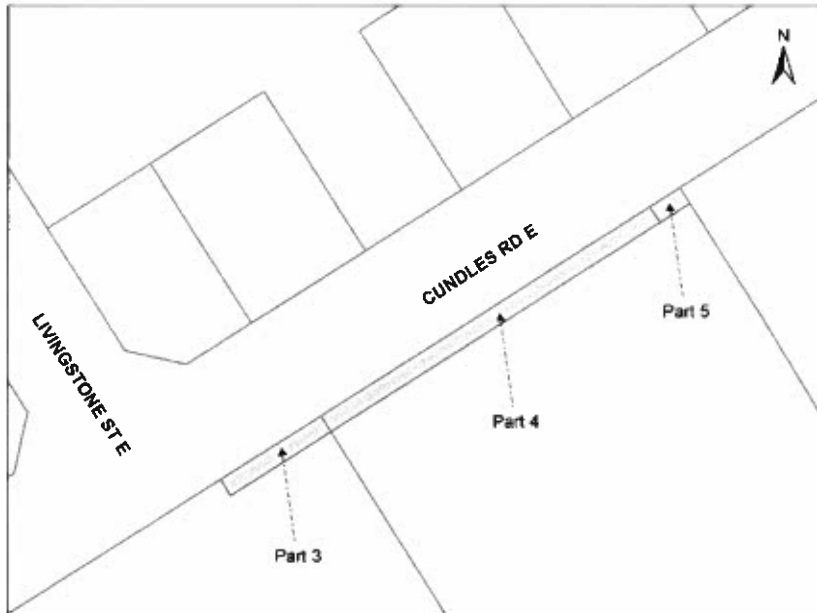
26 Ferndale Drive North



APPENDIX "B"

b)

243 & 273 Cundles Road East



APPENDIX "C"

c)

2 Bernick Drive

