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MARKHAM BY-PASS EXTENSION FROM HIGHWAY 407 TO MORNINGSIDE AVENUE

The Transportation and Works Committee recommends the adoption of the recommendations contained in the following report, September 10, 2003, from the Commissioner of Transportation and Works:

1. RECOMMENDATIONS

It is recommended that:

1. Upon receipt and consideration of government agency, stakeholder and public comments on the draft Terms of Reference, the document be finalized and the Commissioner of Transportation and Works be authorized to submit the Markham By-pass Extension, from Highway 407 to Morningside Avenue, Environmental Assessment Terms of Reference for the Environmental Assessment Act statutory review.
2. The Regional Clerk be requested to send copies of this report to the Clerks at the Town of Markham and City of Toronto.

2. PURPOSE

The purpose of this report is to inform Committee and Council that the Terms of Reference (TOR) phase of the Individual Environmental Assessment (EA) for the Markham By-pass Extension from Highway 407 to Morningside Avenue is nearing completion. Upon receipt and consideration of comments from government review agencies, stakeholders and the public, the project team will finalize the report for formal submission of the TOR to the Ministry of Environment for the statutory review required under the EA Act.

3. BACKGROUND

Numerous transportation studies during the last number of years have identified the need for a new north-south road connection in the eastern part of the boundary area between Toronto and York. The Town of Markham and York Region have completed the Environmental Assessment for the Markham By-pass north of Highway 407 and the Region has begun implementation of this important new transportation corridor.

In order to accommodate the growth forecast for the eastern parts of York and Toronto and the western part of Durham, the Markham By-pass needs to be extended south to connect with the arterial road network in Toronto.

The Town of Markham and York Region have been ensuring that all development applications in the area protect for all reasonable alternatives for the alignment of the

Markham By-pass Extension. The uncertainty of the By-pass alignment has made development planning for this area more difficult. From this perspective, there is a need to establish the ultimate alignment as soon as possible. *Attachment 1* shows the EA study area.

In the Ontario Municipal Board approval of the Morningside Heights Secondary Plan within the City of Toronto, potential alignments for this road connection were protected. A timeline for the completion and submission of the EA by December 31, 2005 was included in the Secondary Plan through the OMB approval process.

In June 2002, staff reported to Committee and Council on the consultant selection to carry out the EA. The consultant team of McCormick Rankin Corporation and Totten Sims Hubicki was retained to assist Transportation and Works staff with this assignment.

York Region is the sole proponent for the EA. Although the City of Toronto has not agreed to participate in this study as co-proponent, City staff have been involved through the Technical Advisory Committee and have attended all Public Consultation Centres (PCC's) to provide input on public questions and comments related to issues within the City of Toronto.

4. ANALYSIS AND OPTIONS

4.1 Project Progress

The study commenced in July 2002 and is being undertaken as an Individual Environmental Assessment which consists of a Terms of Reference phase followed by the detailed Environmental Assessment. In August 2003, a draft TOR was circulated to government agencies and stakeholders (including City of Toronto and Town of Markham staff) for review and comments. The draft TOR was also made available to the general public through the project website (www.markhambypass.ca) and hard copies were made available for viewing at the Clerk's Department as well as at the Town of Markham and City of Toronto (Scarborough) offices.

Upon receipt and consideration of comments on the draft TOR from government review agencies, stakeholders and the public, the project team will finalize the TOR and submit it for the EA Act statutory review. The statutory review generally includes a five-week public review period, followed by a seven-week period to address any outstanding issues and for final consideration by the Minister of Environment.

4.2 Terms of Reference and the Environmental Assessment

The main purpose of the Terms of Reference phase of an Individual Environmental Assessment is to set out in detail the requirements for the preparation of the environmental assessment. The TOR sets out how the EA will address the following EA Act requirements:

- a) A description of the purpose of the undertaking.

- b) A description of the rationale for:
 - The undertaking.
 - Alternative methods of carrying out the undertaking.
 - Alternatives to the undertaking.
- c) A description of the environment that may be affected, effects caused to the environment and the actions required to mitigate the environmental effects.
- d) An evaluation of the advantages and disadvantages to the environment.
- e) A description of public and agency consultation.

Typically in the TOR phase of an EA, work is undertaken to confirm the rationale (need) for the proposed undertaking and an evaluation of the alternatives to the undertaking, thereby addressing several of the EA requirements early on in the process. In such a case, the TOR would exclude these requirements from the EA work plan since they had already been satisfied.

A recent Ontario Superior Court decision dated June 17, 2003, has created some uncertainty in the EA process. The court ruling set aside a Ministry of Environment approval of a TOR where alternatives to the undertaking were not addressed at the TOR phase and were not proposed to be addressed as part of the follow-on EA.

The court decided that an EA must include all of the requirements listed above as a minimum. Further, a TOR can customize an EA for a particular undertaking to include additional requirements but not less. Although our project differs from the court ruling in that alternatives to the undertaking have been considered, the uncertainty relates to whether this analysis can be satisfied at the TOR phase or must be incorporated into the follow-on EA.

Staff are working with Ministry of Environment staff to ensure that the TOR for this project is fully compliant with the recent court ruling to limit any delay in TOR approval and subsequently in starting the follow-on EA.

4.3 Public Consultation

There were two rounds of Public Consultation Centres (PCC's) for the TOR phase of the study. The first PCC was held on December 11, 2002 at the Rouge River Community Centre. During this PCC, a request was made by a City of Toronto Councillor to include a location within Toronto for the next round of consultation.

The second round of PCC's included a session held on June 12, 2003, at the Rouge River Community Centre and a second session on June 17, 2003 at the Scarborough Civic Centre.

The notices for the PCC's were mailed out to relevant agencies, stakeholders and any person on the project mailing list. In addition to direct mail out, the PCC notices were published in the Markham Economist and Sun and the Scarborough Mirror for both

rounds of PCC's. The second round of PCC's also included advertisement in the Toronto Star in an effort to maximize public awareness in the study.

The PCC's included a two-hour open house where attendees could review the material being presented and ask questions of the project team, followed by a formal presentation that also included a question and answer period at key stages of the presentation. A facilitator was used at each PCC to enhance dialogue and public participation.

In general, most PCC attendees agreed that transportation improvements in the study area are required. Alternative improvements were thoroughly discussed and debated. The need for improved transit services as a partial solution to growing congestion was a repeated theme noted at the PCC's. The need to protect and preserve the natural environment was also identified as a key issue.

Upon approval of the TOR, two additional rounds of PCC's are planned for the follow-on EA.

4.4 Technical Advisory Committee

The Technical Advisory Committee (TAC) includes staff representation from the City of Toronto, Town of Markham, MTO, TRCA, CP Rail, Region of Durham, York Region Planning Department as well as the project team.

A TAC is an important component of this project. The Committee meets at key stages of the project to review draft findings prior to presenting the information at the PCC's. The feedback received from the key technical agencies helps identify relevant issues to be addressed through the EA and is also an important quality control process.

5. FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

6. LOCAL MUNICIPAL IMPACT

Town of Markham staff have been actively involved in every aspect of the EA project. Although the City of Toronto is not co-proponent in this study, City staff have been involved through the Technical Advisory Committee and have attended and provided input at all PCC's.

The current uncertainty related to the alignment of the proposed road makes it difficult to finalize development plans in the area. Therefore, staff believes that the Town of Markham and City of Toronto have a strong interest in the successful completion of this project.

7. CONCLUSION

The Terms of Reference (TOR) phase of the Individual Environmental Assessment for the Markham By-pass Extension from Highway 407 to Morningside Avenue is nearing completion.

Upon final revision to the draft TOR to incorporate comments received from government review agencies, stakeholders and the general public, the TOR is proposed to be submitted to the Ministry of Environment for the EA Act statutory review.

The detailed Environmental Assessment, including development of alignment alternative, will commence upon approval of the TOR by the Minister of Environment.

There is strong interest from most stakeholders to proceed quickly into the detailed EA phase of the project and ultimately to completion in order to provide detailed solutions for the traffic congestion in the study area as well as to eliminate uncertainty for proposed development plans.

The Senior Management Group has reviewed this report.

(A copy of the attachment referred to in the foregoing is included with this report and is also on file in the Office of the Regional Clerk.)