

Clause 14 in Report No. 11 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on June 29, 2017.

14

Expropriation of Land
Viva Bus Rapid Transit Corridor
Highway 7, 57 and 101 Northview Boulevard
City of Vaughan

Committee of the Whole recommends adoption of the following recommendation contained in the report dated June 8, 2017 from the Commissioner of Corporate Services:

1. Council authorize an application for approval to expropriate the lands (the “Lands”) set out in Attachment 1 for the construction of the vivaNext bus rapid transit corridor on Highway 7 West, in the City of Vaughan.
2. The Commissioner of Corporate Services be authorized to execute the Application for Approval to Expropriate Land and the Notice of Application for Approval to Expropriate Land (the “Notice”) and to serve and publish the Notice, as required under the *Expropriations Act* (the “Act”).
3. The Commissioner of Corporate Services be authorized to forward to the Chief Inquiry Officer any requests for an inquiry that are received and to represent the Region, as necessary, at an inquiry (Hearing of Necessity) held under the *Act*.

Report dated June 8, 2017 from the Commissioner of Corporate Services now follows:

1. Recommendations

It is recommended that:

1. Council authorize an application for approval to expropriate the lands (the “Lands”) set out in Attachment 1 for the construction of the vivaNext bus rapid transit corridor on Highway 7 West, in the City of Vaughan.

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2. The Commissioner of Corporate Services be authorized to execute the Application for Approval to Expropriate Land and the Notice of Application for Approval to Expropriate Land (the "Notice") and to serve and publish the Notice, as required under the *Expropriations Act* (the "Act").
3. The Commissioner of Corporate Services be authorized to forward to the Chief Inquiry Officer any requests for an inquiry that are received and to represent the Region, as necessary, at an inquiry (Hearing of Necessity) held under the *Act*.
4. Council, as approving authority, approve the expropriation of the Lands provided there is no Hearing of Necessity requested in accordance with the *Act*. Council approval is deemed to be given effective 31 days following the publication of the Notice and when a Hearing of Necessity is not requested in accordance with the *Act*.
5. Where approval to expropriate the Lands is given, the Commissioner of Corporate Services be authorized to register a certificate of approval and plan of expropriation, and execute and serve any notices required under the *Act*.
6. Where approval to expropriate the Lands is given, Council authorize the introduction of the necessary bylaw to give effect to these recommendations.

2. Purpose

This report seeks Council approval for an application to expropriate property interests required for the construction of the vivaNext bus rapid transit corridor on Highway 7 West, in the City of Vaughan, as shown in Attachment 2.

This report further seeks Council approval to expropriate any of the Lands for which no Hearing of Necessity is requested, and which have not otherwise been acquired by the Region through ongoing negotiations.

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3. Background and Previous Council Direction

The Region is constructing dedicated bus rapid transit lanes for vivaNext along Highway 7 West

To facilitate public transit along Highway 7, the Region, via York Region Rapid Transit Corporation (YRRTC), is undertaking improvements to the road infrastructure and constructing dedicated centre lanes for Viva buses, along with enhanced street features and boulevards. The subject property is located at the northwest corner of Highway 7 and Highway 400 in Vaughan.

The Region secured possession of multiple parcels originally identified on Highway 7 West, Centre Street and Bathurst Street

Council approved the expropriation of multiple properties on Highway 7 West, Centre Street and Bathurst Street in [January 2015](#), [March 2015](#) and [October 2015](#). In 2016, the corridor was extended west on Highway 7 West to Bruce Street and Council approved the expropriation of additional properties ([March 2016](#)). To date, a total of 103 properties have been acquired on this portion of the vivaNext project.

Lands were expropriated from the owner of the subject property based on the initial project design

VivaNext is being constructed using a design-build project delivery system, which overlaps the project design and construction phases. The subject property was expropriated based on the initial phase of the project design, completed in 2015.

The Ministry of Transportation requested restoration of a right turn lane in the advanced project design

The subject property fronts Highway 7 with four existing westbound lanes and a dedicated right turn lane to access the subject property. The initial project design eliminated the right turn lane while maintaining access from the westbound lanes. The Ministry of Transportation (MTO) reviewed the initial project design given the subject property's proximity to the Highway 400 off-ramp/overpass and requested restoration of the right turn lane. YRRTC reviewed MTO's request and agreed to restore the right turn lane in the advanced project design.

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The restoration of the right turn lane shifts a retaining wall north

The existing topography along the Highway 7 frontage includes a sharp drop in elevation from the road. To overcome the elevation difference, a retaining wall was included in the initial project design. The restoration of the right turn lane in the advanced project design will shift the retaining wall north, which requires additional land from the subject property.

Additional land requirements from the subject property will affect previously expropriated property rights

The advanced project design creates additional fee simple, permanent easement and temporary easement requirements from the subject property. The easements expropriated in 2015 will become fee simple with the exception of a portion that will remain as a temporary easement.

4. Analysis and Implications

Initiating the expropriation process will secure access to the Lands

The preferred approach to obtaining land is to negotiate a transaction with the property owner. However, in many cases various events affect the timing of negotiations, such as owners who prefer to finalize negotiations at the completion of the project. In this regard, expropriation is deemed a necessary approach to ensure possession of lands to facilitate the needs of a project.

The project schedule will not be compromised due to the additional requirements

Construction of the corridor has commenced with utility work within the property interests previously acquired. Construction of the retaining wall was initially scheduled for 2017, however, it will be rescheduled if possession cannot be obtained through a negotiated agreement. The additional property requirements will be added to the project scope and final project construction will not be delayed, provided possession is achieved in 2018.

In an effort to secure possession and complete the additional property acquisitions for this project, it is recommended the expropriation process proceed concurrently with ongoing negotiations.

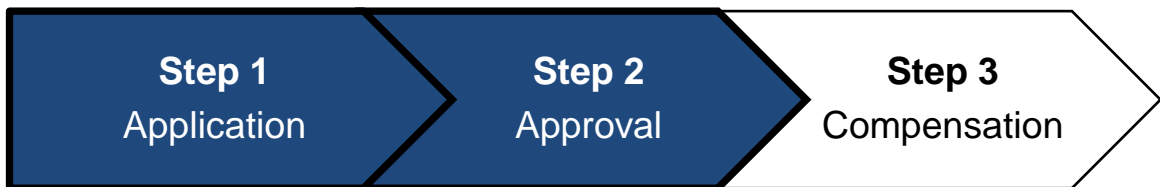
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Staff will continue to negotiate an agreement of purchase and sale for the required interests concurrently with the expropriation process, until an expropriation plan has been registered or a negotiated agreement is completed.

Approval by Council is required at various stages of the expropriation process

Approval by Council is required at three stages in the expropriation process. These include the request to Council to authorize an application for approval to expropriate the Lands, the expropriation of the Lands, and the offer of compensation made to the former owner of the Lands for the losses suffered as a consequence of the expropriation.

In an effort to ensure possession of the Lands meets the coordinated construction schedule, the first and second steps in the Council approval process have been combined for this report, as indicated in the graphic below. The third step will be the subject of a future report to Council, in the event the expropriations proceed. Possession of the Lands cannot be obtained until this third step has been completed and the owners are served offers of compensation.



Owners have the right to request a Hearing of Necessity upon receipt of a Notice of Application for Approval to Expropriate Land

The first step in the expropriation process is to serve owners with notice of intent to expropriate, following Council approval. Upon receipt of the Notice of Application for Approval to Expropriate Land, each owner has the right within 30 days of receipt to request an inquiry (Hearing of Necessity) as to whether the taking of the lands by the Region is fair, sound and reasonably necessary.

If an owner requests a Hearing of Necessity, then subsequent to the Hearing, an Inquiry Officer will provide a report providing an opinion as to whether the taking

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is fair, sound and reasonably necessary, including an explanation for the Inquiry Officer's findings.

Registration of expropriation plans will secure ownership of the Lands by the Region

For properties where no Hearings of Necessity are requested, a certificate of approval and expropriation plans will be registered at the Land Registry Office. This is the second step in the expropriation process, anticipated to be in the last quarter of 2017.

Registration of the expropriation plans is a key step because it is at this point that the Region acquires ownership of the Lands. However, further steps are required to obtain possession, or the right to access the Lands.

Following the registration of the expropriation plans, the notice of expropriation, election and possession will be served on the owners. Under the *Act*, possession of the Lands is to take place no sooner than three months after registration of the expropriation plans. In addition, offers of compensation must be served on the owners to obtain possession.

Environmental due diligence is underway on the lands

Environmental due diligence is underway. The results will be reviewed by staff in consultation with Legal Services. In the event contamination or other environmental concerns are identified with respect to the environmental condition of the Lands, the Region will take appropriate action to minimize potential exposure to the Region. Any significant issues will be reported back to Council, if necessary.

5. Financial Considerations

The funding for the property acquisition is included in the 2017 YRRTC Capital Budget. The project is funded by the Province, via the Metrolinx Master Agreement.

6. Local Municipal Impact

This expropriation supports the improvement of public transit within the Region and enriches the streetscape on Highway 7. The right turn lane also helps

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facilitate vehicular traffic flow on Highway 7 given the site's proximity to the Highway 400 off ramp and overpass.

7. Conclusion

To date, the Region has acquired possession of multiple property interests through previous expropriations and negotiated agreements. Additional property requirements were identified by the project design/build proponent, which are the subject of this report. The property requirements will be added to the project scope and final project construction will not be delayed, provided possession is achieved in 2018.

Accordingly, it is recommended that Council approve the initiation of the expropriation process for the additional property requirements detailed in this report.

For more information on this report, please contact Michael Shatil, Director, Property Services Branch at 1-877-464-9675 ext. 71684.

The Senior Management Group has reviewed this report.

June 8, 2017

Attachments (2)

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Accessible formats or communication supports are available upon request

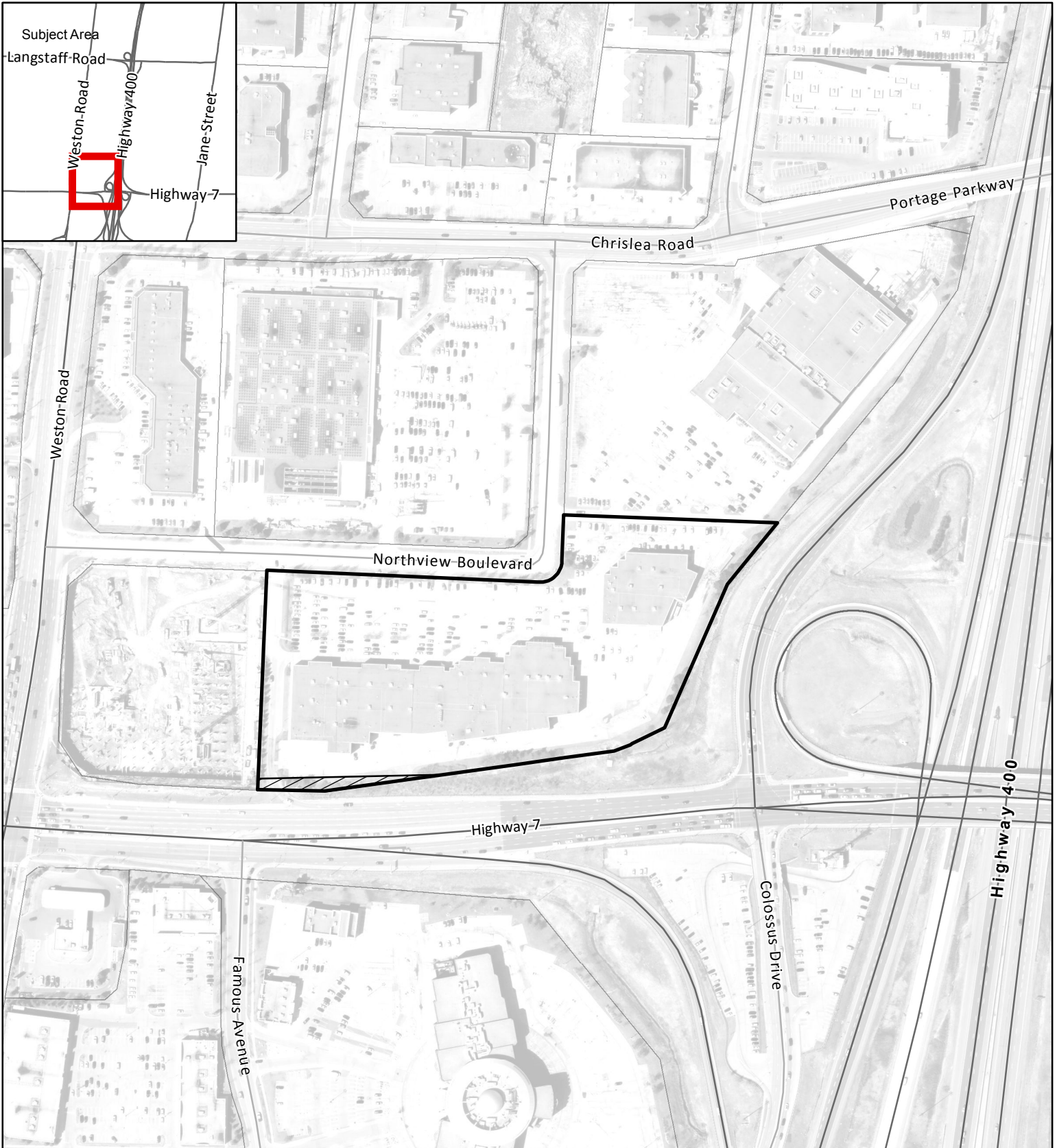
**Property Schedule
Expropriation of Land
Viva Bus Rapid Transit Corridor
57 and 101 Northview Boulevard
City of Vaughan**

No.	Owner	Municipal Address	Legal Description	Interest Required
1.	Calloway REIT (400 and 7) Inc.	57 and 101 Northview Boulevard Vaughan	Parts 5, 6, 8, 9, 10, 11, Plan 65R36722	Fee Simple
			Part 3, Plan 65R36722	Permanent Easement
			Part 1, 2, 4, Plan 65R36722	Temporary Easement

The required permanent easements are described as a limited interest in perpetuity in, under, over, along and upon and for municipal purposes including, but not limited to, entering on the lands with all vehicles, machinery, workmen and other material (i) to construct and maintain permanent municipal infrastructure which may include installation, maintenance, relocation and/or removal of traffic turning loops and associated signalization equipment and controls, retaining walls, shoring and formwork and/or drainage, erosion or sediment control measures such as watermains and storm sewers; and (ii) for construction purposes which may include, but are not limited to, (1) relocation of existing services and utilities, (2) staging and storage of materials and equipment, (3) geotech testing, borehole testing, and other investigative works, (4) removal, relocation and/or installation of signage, (5) hard and soft landscaping, paving, grading and reshaping the lands to the limit of the reconstruction of municipal road fronting the lands herein described, (6) the installation and removal of temporary (i) pedestrian access and walkways, (ii) parking measures including re-striping of aisles, lanes, and parking stalls, (iii) shoring and formwork, (iv) drainage and erosion/sediment control measures, (v) traffic signals, (vi) fencing, and (vii) handrails, and (7) works ancillary to any of the foregoing and necessary to the works to be performed in association with the purpose of implementing road and intersection improvements along Highway 7, including associated local roads, and to provide designated lanes for the vivaNext transit system and works ancillary thereto.

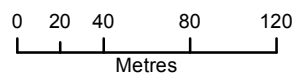
The required temporary easements are described as a temporary limited interest commencing upon registration of an expropriation plan and expiring on April 14, 2020 in, under, over, along and upon and for municipal purposes including, but not limited to, entering on the lands with all vehicles, machinery, workmen and other material for construction purposes, which may include (1) relocation of existing services and utilities, (2) work that supports the construction of municipal infrastructure within the Region's permanent takings, (3) staging and storage of materials and equipment, (4)

No.	Owner	Municipal Address	Legal Description	Interest Required
<p>geotech testing, borehole testing, and other investigative works, (5) removal, relocation and/or installation of signage, (6) hard and soft landscaping, paving, grading and reshaping the lands to the limit of the reconstruction of the municipal road fronting the lands herein described, (7) the installation and removal of temporary (i) pedestrian access and walkways, (ii) parking measures including re-striping of aisles, lanes, and parking stalls, (iii) shoring and formwork, (iv) drainage and erosion/sediment control measures (v) traffic signals, (vi) fencing, and (vii) handrails, and (8) works ancillary to any of the foregoing and necessary to the works to be performed in association with the purpose of implementing road and intersection improvements along Highway 7, including associated local roads, and to provide designated lanes for the vivaNext transit system and works ancillary thereto.</p>				



Location Plan

Expropriation of Land
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 City of Vaughan
 June 22, 2017



Legend

-  Subject Property
-  Interest Required
-  Parcel
-  Road



Produced by:
 The Regional Municipality of York
 Property Services, Corporate Services
 May 2017

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Imagery:
 See York.ca for disclaimer information.