

Clause 11 in Report No. 14 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on September 24, 2015.

11

Expropriation Settlement  
 Viva Bus Rapid Transit Corridor  
 Addison Street Land Parcel North of Harding Boulevard  
 Town of Richmond Hill

**Committee of the Whole recommends adoption of the recommendations contained in the following report dated August 27, 2015 from the Commissioner of Corporate Services:**

1. Recommendations

It is recommended that:

1. Council authorize the settlement of the expropriation of the following land required for the construction of the bus rapid transit corridor on Yonge Street, in the Town of Richmond Hill, on the terms set out in this report.

No.	Owner	Municipal Address	Legal Description	Interest Required
1.	Baif Developments Limited	No address allocated, Addison Street Richmond Hill	Parts 1 and 2, Plan YR2257917	Fee Simple
			Parts 3, 4 and 5, Plan YR2257917	Temporary Easement

The temporary easement is required for the purpose of entering on the land with all vehicles, machinery, workers 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) 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 Yonge Street, (7) the installation and removal of temporary (i) pedestrian access and

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No.	Owner	Municipal Address	Legal Description	Interest Required
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.				

2. The Commissioner of Corporate Services be authorized to execute the Minutes of Settlement and all necessary documentation to complete the transaction in accordance with the Minutes of Settlement.

2. Purpose

This report seeks Council approval to accept the Minutes of Settlement for the land that has been expropriated for the vivaNext Y2.1 Yonge Street project, as shown in Attachment 1.

3. Background

The Region is constructing dedicated bus rapid transit lanes for the vivaNext project along Yonge Street in Richmond Hill

The Region, via YRRTC, is constructing dedicated centre bus lanes and enhanced street features and boulevards along Yonge Street from Highway 7 to Major Mackenzie Drive in Richmond Hill. The project received approval from the Ministry of the Environment on November 2006. Construction of the new rapidway along the Yonge Street corridor began in June 2015, commencing with relocation of utilities. The rapidway is expected to open by the end of 2018.

Land requirements were identified to complete the project and steps were taken to obtains the lands

The Region identified land requirements from 56 property owners as part of the vivaNext project in the Y2.1 Yonge Street corridor between Highway 7 and Major Mackenzie Drive. The slightly irregular rectangular shaped vacant land parcel fronting Addison Street between Harding Boulevard and Hopkins Street, which is the subject of this council report, is one of the 56 properties. Region staff

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endeavoured to obtain the requirements through amicable negotiations, expropriation and Regional site plan approvals for all 56 properties.

The owner of the subject property went to the Ontario Municipal Board to appeal the official plan and zoning bylaw

Prior to the Region obtaining the land requirements through expropriation, the owner applied to amend the Town of Richmond Hill's official plan and zoning bylaw to permit a series of residential and mixed-use buildings on the subject property. The official plan and zoning bylaw amendment applications were appealed to the Ontario Municipal Board to which the Region was party. The Region and the owner were able to reach a settlement of the Region's issues related to the appeal, and entered into a Minutes of Settlement, executed September 2014.

As part of the appeal settlement the owner agreed, among other items, to convey the temporary easement requirements for a nominal consideration value, rather than full market value, as full compensation for all entitlements as provided for in the *Expropriations Act* (the "Act"). Negotiations to settle the compensation for the fee simple interest could not be reached at the time.

The Region expropriated the land requirements from the 56 properties including the subject with possession June 2015

As per the terms of the executed Minutes of Settlement, completed as part of the zoning and official plan appeal, the owner was to convey the temporary easement to the Region. To guarantee possession, Council approved the expropriation of the land requirements from all 56 properties, including the temporary easement from the subject property. As the owner had not conveyed the temporary easement by the date needed to maintain the construction schedule for the vivaNext project, the lands were expropriated and the Region took possession June 2015.

#### 4. Analysis and Options

A full and final settlement has been negotiated

The Region and the owner negotiated a full and final settlement of all the expropriated land interests including market value, business loss and other damages, interest and other costs as provided under the *Act*, with a nominal

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compensation for the temporary easement. As part of the expropriation settlement, the owner is waiving all rights to claim against the temporary easement as they previously agreed to convey the rights.

Negotiations were initiated based on the original appraisal for the fee simple interest

An appraisal was prepared, as required under the *Act*, to make an offer of compensation. The appraisal provided an opinion of market value for the lands expropriated. The owner did not agree with the appraiser's final estimate of the fee simple vacant land value for the property. As a compromise, to the satisfaction of both the owner and the Region, the vacant land value was negotiated at a higher rate than appraised with deductions from the final settlement made as an off set.

Deductions in the settlement include environmental remediation and waiver of the right to claim interest

The Region hired an engineering firm, as part of the Regions due diligence, to conduct environmental testing on the fee simple interest expropriated from the subject property. The findings estimated environmental clean-up costs, which have been deducted from the market value of the lands. In addition to the environmental deduction the right to claim interest, as prescribed in the *Act* at a rate of six percent per annum, was waived and will not be paid out over and above the final settlement. This is considered significant as it stops the interest accumulation during the period required to finalize the settlement, authorize the settlement, obtain the required releases and compensate the owner.

The owner will retain the right of first refusal for a set period if the Region abandons or disposes of the expropriated land

The owner has requested it retain its rights under section 41 and 42 of the *Act*. This section of the *Act* relates to the owner's right of first refusal to purchase in the event the Region determines the lands are not required for the project. As a compromise the Region has agreed to allow the owner to retain these rights but upon a set date the rights will expire. This arrangement will allow the Region to get a full and final settlement while the owner retains the requested rights for a temporary four year term. The risk to the Region is very limited as the lands are required for the vivaNext project and are highly unlikely to be disposed of in the next four years. After the rights expire the Region will not be inhibited in its future disposal of the lands, if required at all.

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The Region will not incur additional expenses once the settlement is completed

The settlement is considered in the best interest of the Region. By completing this negotiated settlement the Region will not incur any further claims and associated legal and litigation expenses from the owner.

Link to key Council-approved plans

The proposed acquisition for the Y2.1 Yonge Street project supports the objectives of Vision 2051, the Regional Official Plan and the 2015 to 2019 Strategic Plan.

The project addresses a key goal of Vision 2051: Interconnected Systems for Mobility. Public transit is enhanced by improving existing infrastructure and services, improving the speed and reliability of the transit system through the use of intelligent transportation systems, and combining a feeder network of buses operating in dedicated lanes.

As well, the Y2.1 Yonge Street project supports one of the objectives of the Regional Official Plan which is to provide convenient and accessible transit service to all residents and workers of York Region.

Lastly, one of the Strategic Priority Areas of the 2015 to 2019 Strategic Plan is Strengthen the Region's Economy. Focusing on networks and systems that connect people, goods and services is one of the strategic objectives of this priority area that is supported by the proposed acquisition.

## 5. Financial Implications

The funding required to complete this settlement is included in the 2015 YRRTC Capital Budget. The project is funded by the Province, via the Metrolinx Master Agreement.

## 6. Local Municipal Impact

The construction of dedicated bus lanes and related facilities, as well as road and intersection improvements along Yonge Street is critical to the achievement of the vision for this corridor for the Region. Additionally, upon completion this

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project will improve public transit facilities and enrich the Yonge Street streetscape in Richmond Hill.

## 7. Conclusion

The Region expropriated a fee simple and temporary easement from the subject property located between Harding Boulevard and Hopkins Street in Richmond Hill for the vivaNext project in 2015. The Region has negotiated a full and final settlement with the owner that represents a good value to the Region. The proposed settlement will include releases from the owner and registered interest to finalize the arrangement.

It is recommended that Council authorize the expropriation settlement described in this report to conclude the land acquisition, settle of all claims related to the expropriation of the subject property and come to a full resolution of the Region and owners interests in the land acquired. For more information on this report, please contact Michael Shatil, Director, Property Services Branch at ext. 71684.

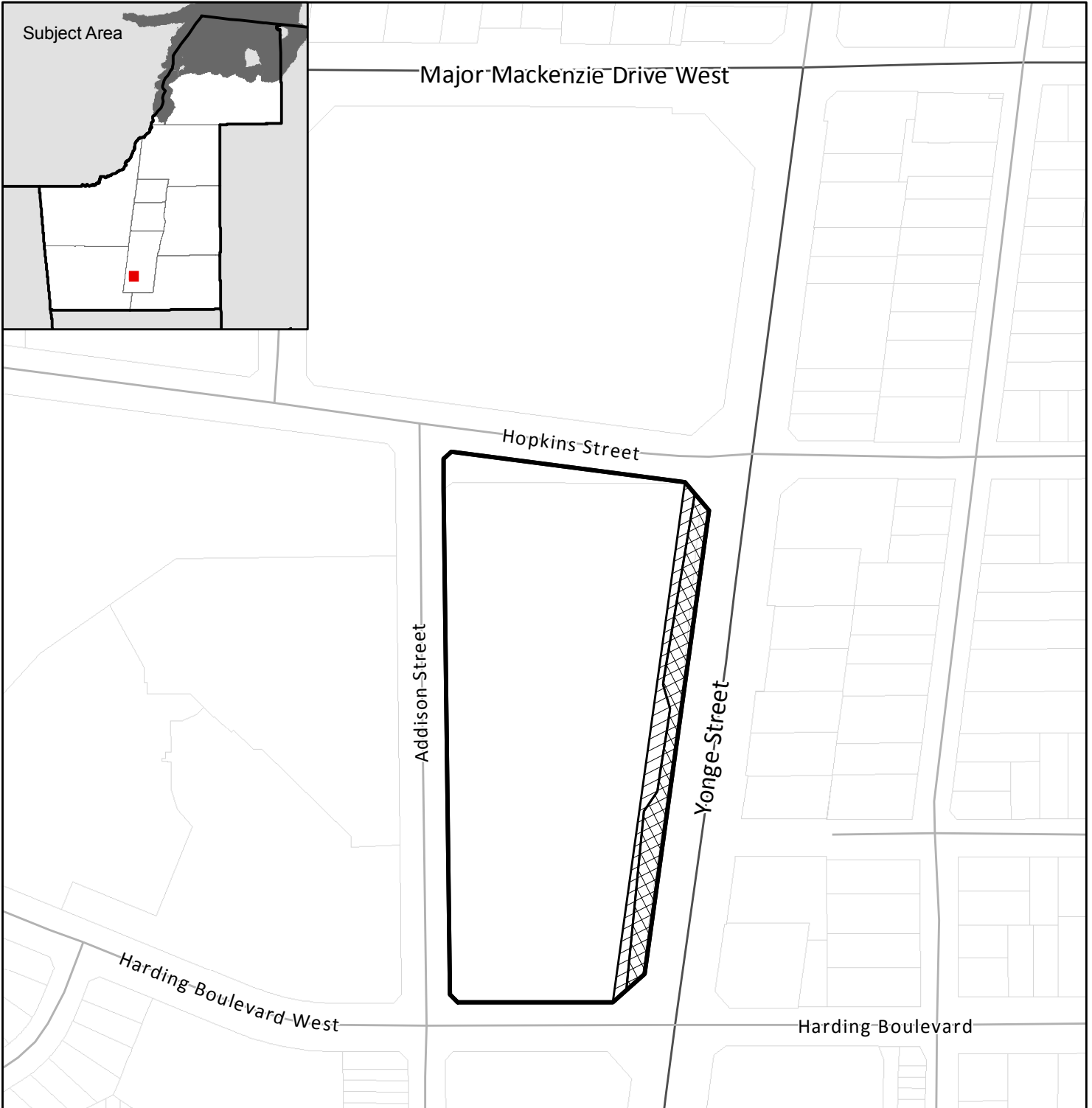
The Senior Management Group has reviewed this report. August 27, 2015

Attachments (1)

Private Attachment (1)

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Accessible formats or communication supports are available upon request



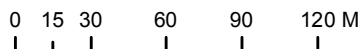
**LOCATION PLAN**

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Produced by:  
 The Regional Municipality of York  
 Property Services, Corporate Services  
 June 2015

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**Legend**

-  Subject Property
-  Fee Simple
-  Temporary Easement
-  Parcel
-  Road