

Clause 17 in Report No. 6 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on March 26, 2015.

Application for Approval to Expropriate
Viva Bus Rapid Transit Corridor
9993 Yonge Street

Town of Richmond Hill Committee of the Whole recommends adoption of the recommendations contained in the following report dated January 28, 2015 from the Commissioner of Corporate Services:

1. Recommendations

It is recommended that:

1. Council authorize an application for approval to expropriate the following land, for the vivaNext bus rapid transit system on Yonge Street, in the Town of Richmond Hill.

| No. | Owner | Municipal Address | Legal Description | Interest Required |
|---|-------------------------|--|------------------------------|-------------------|
| 1. | Northcore Holdings Inc. | 9993 Yonge Street Town of Richmond Hill | Parts 3 and 4, Plan 65R35442 | Fee Simple |
| <p>The fee simple interest required is described as all right, title and interest for the municipal purpose of implementing road and intersection improvements along Yonge Street, including associated local roads, and to provide designated lanes for the vivaNext transit system and works ancillary thereto.</p> | | | | |

2. The Commissioner of Corporate Services be authorized to execute the Application for Approval to Expropriate Land and the Notice of Application

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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 request for an inquiry that is received and to represent the Region, as necessary, at any inquiry held under the *Act*.
4. Council authorize the introduction of the necessary bylaw to give effect to these recommendations.

2. Purpose

This report seeks Council approval for an application for approval to expropriate a property interest required for the Yonge Street vivaNext bus rapid transit project, as shown in Attachment 1.

Under the *Act*, Council, as approving authority, must approve an application prior to the initiation of any proceedings.

3. Background

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

To facilitate public transit along Yonge Street in Richmond Hill, the Region, via York Region Rapid Transit Corporation (YRRTC) is undertaking improvements to the road infrastructure and the construction of dedicated centre lanes for Viva buses, along with enhanced street features and boulevards. The project as a whole is referred to as vivaNext, and the portion of the vivaNext project from Highway 7 to Major Mackenzie Drive on Yonge Street is referred to as Y2.1.

The property that is the subject of this report is located at the north end of Y2.1, at the south east corner of the intersection of Yonge Street and Major Mackenzie Drive. The land requirement from 9993 Yonge Street is shown in Attachment 1, with a more detailed map and photographs addressing the impacts to building improvements in Attachment 2 and 3.

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The Ministry of the Environment approved the Environmental Assessment for this portion of the project in November of 2006. The contract to construct the corridor for Yonge Street in Richmond Hill was awarded in the spring of 2014.

Possession of land on Yonge Street is required by June 2015 to allow utility relocations to begin

Utility relocations are the first construction related item to be considered. Privately owned lands are often required in order to complete the relocations within the new boulevards along the edge of the roadway. In order to fulfill contract obligations related to construction of the corridor, possession of lands on Yonge Street in Richmond Hill is required by June 2015. Completion of the corridor and the opening of the bus rapid transit centre lanes is anticipated by the end of 2018.

In February 2014 and September 2014, Council authorized the initiation of the expropriation process for 56 properties

On February 20, 2014, Council authorized an application for approval to expropriate interests from 55 property owners. As the design of the corridor progressed, one additional property was identified as a requirement, bringing the total number of affected properties to 56. Council authorized an application for approval to expropriate the additional property on September 11, 2014. Following each Council approval, the Notice of Application for Approval to Expropriate was served on the owners of the 56 affected properties in the Y2.1 project.

One additional property was identified as survey work proceeded

The requirement of land from the subject property at 9993 Yonge Street, was not identified during the initial design. However, as the survey work proceeded to the intersection of Yonge Street and Major Mackenzie Drive, it was determined that a portion of land from the subject property is required to achieve the design of the project. The subject property has now been identified as the 57th requirement.

This is the first step in the Council approval process for this property, as indicated in the graphic below.

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The John Palmer Sr. house has been identified as being of historic or architectural value

The house at 9993 Yonge Street was built in 1869 and is known as the John Palmer Sr. house. The Town of Richmond Hill By-law 138-99 has designated the house, under part IV of the *Ontario Heritage Act*, R.S.O. 1990, as being of historic or architectural value. To date, the house has not been designated as a heritage property by the Province of Ontario.

The subject property is zoned “General Commercial (GC) Zone” in accordance with Zoning By-law No 66-71, as amended, and is designated “Downtown Local Centre” in the Town’s Official Plan.

The partial taking of land from this property includes land that incorporates the front porch of the building, as shown in Attachments 2 and 3. In order for construction to be completed in the vicinity, the front porch may need to be removed and the building facade restored.

4. Analysis and Options

Initiating expropriation proceedings will secure access to the lands

Staff is negotiating the purchase of the subject requirement in an effort to secure possession to meet the June 2015 timelines for possession of all other lands on the remainder of the corridor. In the event negotiations do not lead to a completed purchase by June 2015, expropriation is the alternative that would provide certainty of possession of the lands. However, in the event of expropriation, possession of the required land from the subject property would be anticipated for late 2015 or early in 2016. This will not meet the scheduled start date for construction of the project.

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Construction activities will need to be coordinated to avoid project disruption

Should the property not be made available until a later date due to the expropriation, staff will endeavour to coordinate construction scheduling with YRRTC and the contractors in order to minimize disruption of the project, until possession of the subject property is obtained.

Owners have the right to request a Hearing of Necessity upon receipt of a Notice of Application to expropriate

The first step in the expropriation process, following Council approval, is to serve owners with notice of Council's intent to expropriate. Upon receipt of the Notice of Application to Expropriate, 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 reasonable.

If an owner requests an inquiry and the Hearing of Necessity proceeds, then subsequent to the inquiry, an inquiry officer will provide a report stating an opinion as to whether the taking is fair, sound and reasonable, including an explanation for the findings.

Future reports will be presented to Council as the expropriation process proceeds

In the event of a Hearing of Necessity, staff will report to Council as to the findings and reasoning of the inquiry officer, along with further recommendations as to whether or not expropriation of the lands should proceed. If there is no Hearing of Necessity, the report to Council will address only the expropriation.

After the expropriation, the Region is required under section 25 of the *Act* to serve an offer of compensation within three months of registration of the expropriation plan. The offer will be based on appraisals of market value and other damages, and possession cannot be secured until the offer of compensation has been served.

The amount of this offer will be reported to Council once the appraisal report has been completed, and before the offer has been served on the owner and possession of the land secured.

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Environmental due diligence has been completed

A Phase I Environmental Site Assessment has been completed by an independent environmental consulting firm as part of the Region's due diligence. The Phase I report has identified that no further investigation is required regarding environmental concerns.

Link to key Council-approved plans

From Vision to Results: 2011 to 2015 Strategic Plan

Priority Area – Focus Growth along Regional Centres and Corridors

Optimize the transportation capacity and services in Regional Centres and Corridors

The acquisition of the lands will assist the Region in meeting its transportation needs.

5. Financial Implications

The budget required to complete the property acquisition for this project has been included in the 2015 YRRTC Capital Budget. The project is funded by the Province, via the Metrolinx Master Agreement.

6. Local Municipal Impact

The Town of Richmond Hill has designated the John Palmer Sr. House as having Heritage significance and has included it in the inventory of buildings of architectural and historical importance. Staff is working closely with the Town of Richmond Hill and YRRTC to ensure that the Heritage status of this property is maintained.

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 the corridor for both the Region and the Town of Richmond Hill. Additionally, this project will improve public transit facilities, and enrich the streetscape to support the Region's goal for higher density, mixed use transit-oriented development.

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7. Conclusion

The widening and construction of Yonge Street, between Highway 7 and Major Mackenzie Drive requires the acquisition of various interests from 57 property owners, including the subject property. Council authorized the applications for approval to expropriate 56 of the properties in February 2014 and September 2014. The subject of this report is an additional land requirement, which was identified as survey work proceeded at the intersection of Yonge Street and Major Mackenzie Drive.

This report seeks Council approval to initiate the expropriation process to acquire a partial taking from a property owner in order to facilitate the construction of dedicated bus lanes, related facilities, as well as the road and intersection improvements. The property has been designated by the Town of Richmond Hill as having historic or architectural value, and staff is working with the Town and YRRTC to ensure the Heritage designation for the building is not compromised.

In order to ensure timely possession of the lands to commence construction, it is recommended that Council approve the application for approval to expropriate the partial land requirement from 9993 Yonge Street. A future report will be presented to Council, requesting the authority to register an expropriation plan and serve Notice of Expropriation to the owner of the subject property. In the event of a Hearing of Necessity, the report will include recommendations regarding the findings of the report of the inquiry officer, related to the Hearing.

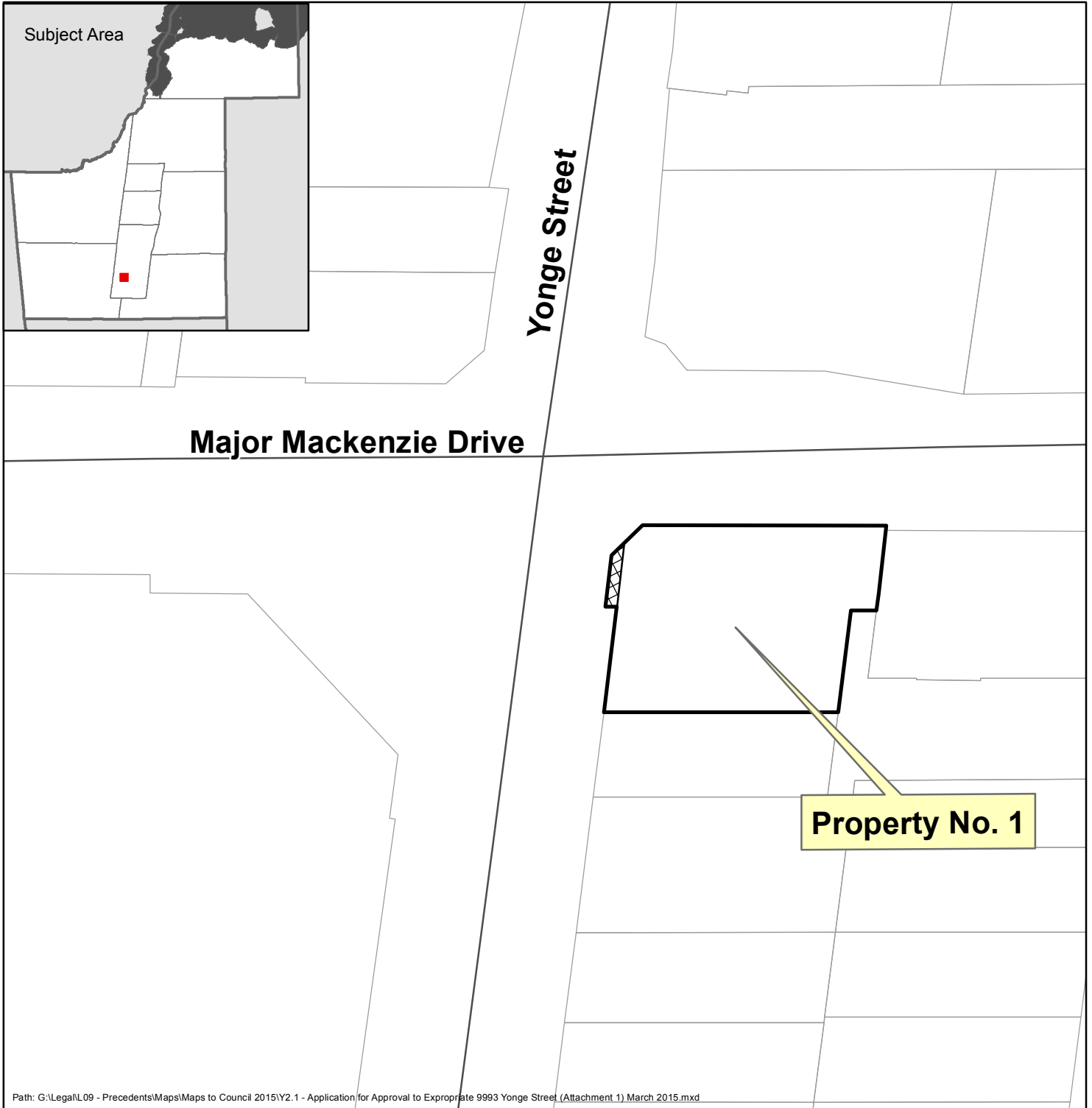
For more information on this report, please contact Eric Bjornson, Acting Manager, Realty Services, Property Services Branch at ext. 71706.

The Senior Management Group has reviewed this report. January 28, 2015

Attachments (3)

eDocs #5830633

Accessible formats or communication supports are available upon request



Path: G:\Legal\I09 - Precedents\Maps\Maps to Council 2015\Y2.1 - Application for Approval to Expropriate 9993 Yonge Street (Attachment 1) March 2015.mxd





LOCATION PLAN

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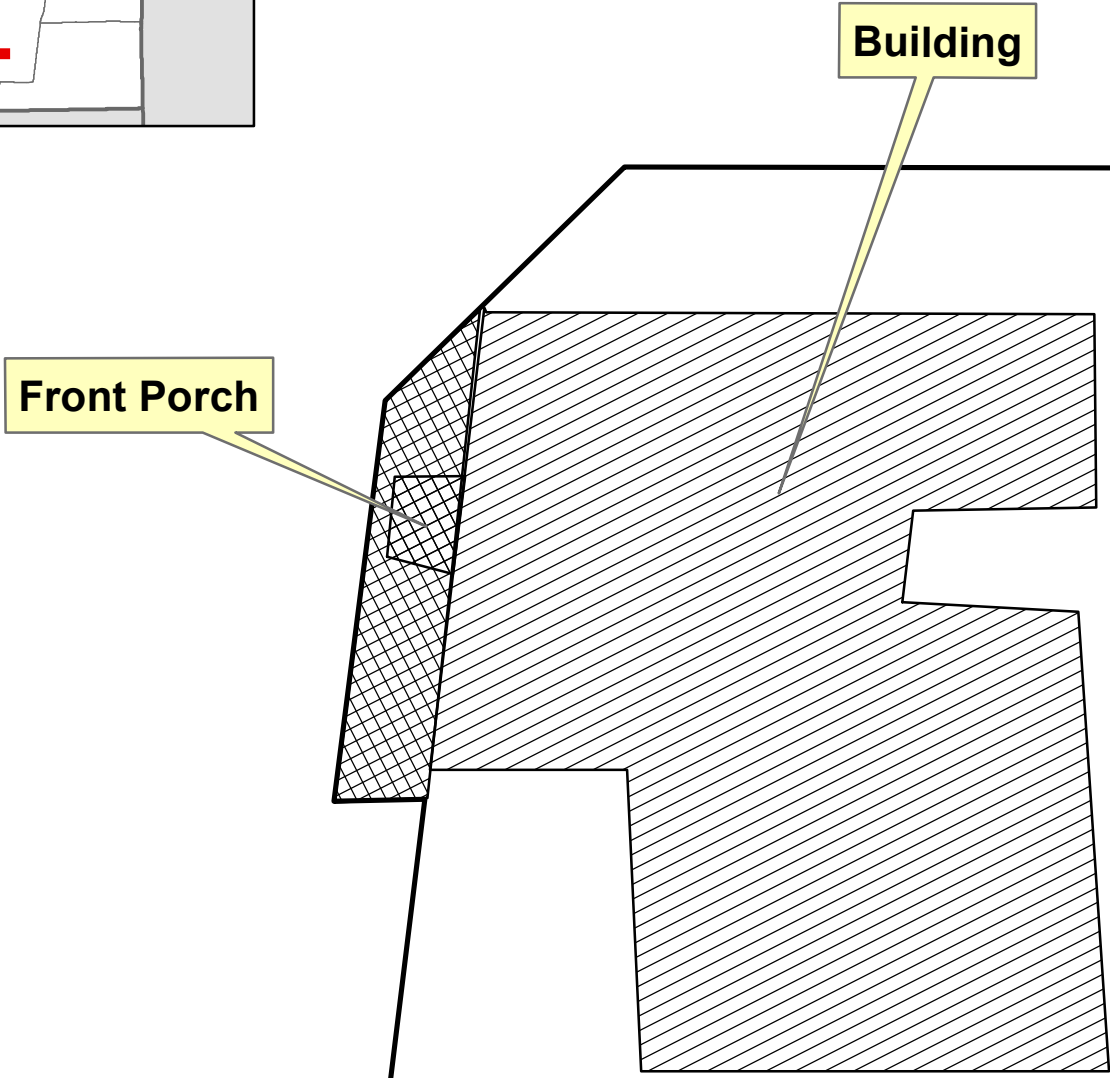
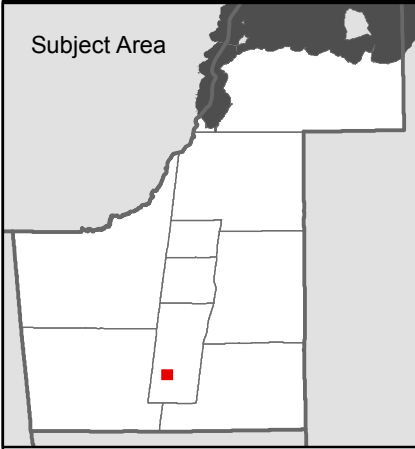
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Legend

-  Interest Required
-  Subject Property
-  Parcel
-  Road



0 15 30 Meters



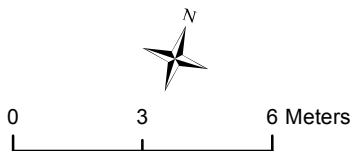
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BUILDING AND FRONT PORCH LOCATION






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Legend

-  Interest Required
-  Building
-  Subject Property
-  Parcel
-  Road

Property Photos
Compensation for Expropriation
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Porch



Subject Property

