



Clause No. 15 in Report No. 2 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on January 22, 2015.

Compensation for Expropriation
Viva Bus Rapid Transit Corridor
1082 Centre Street between Dufferin Street and Bathurst Street
City of Vaughan

Committee of the Whole recommends adoption of the following recommendation contained in the report dated December 19, 2014 from the Commissioner of Corporate Services:

1. Recommendations

It is recommended that:

1. Council authorize the Commissioner of Corporate Services to make an offer of compensation to the owners of the following land in the City of Vaughan, which was acquired in accordance with the *Expropriations Act* (the "Act").

No.	Owner	Municipal Address	Legal Description	Interest Required
1	Palmerston Properties Limited	1082 Centre Street Vaughan	Part of Lot 6, Concession 2 as in R627788	Fee Simple

The fee simple interest required is described as all right, title and interest for the municipal purpose of implementing road and intersection improvements along Highway 7 West, Centre Street and Bathurst Street, including associated local roads, and to provide designated lanes for the vivaNext transit system and works ancillary thereto.

2. Purpose

This report seeks Council approval to serve offers of compensation under section 25 of the *Act* to the parties whose rights have been expropriated for the Highway 7 project from Pine Valley Drive in the City of Vaughan to Yonge Street in the Town of Richmond Hill. The location of the property is shown in Attachment 1.

3. Background

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

To facilitate public transit along Highway 7, 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. A portion of the Highway 7 project includes Centre Street and Bathurst Street to the east and south of Highway 407 in Vaughan.

The project received approval of the Environmental Assessment Report from the Ministry of the Environment in April of 2006. The design-build contract will be awarded in mid-2015 for the portion of Highway 7 which includes Centre Street and Bathurst Street.

Development of the bus rapid transit on Highway 7 is being undertaken in phases

The new vivaNext bus rapid transit project is being designed and constructed in phases on Highway 7, in order to effectively manage the construction and related contractual obligations.

Construction first commenced in 2010 on a nine kilometre stretch of Highway 7 from Yonge Street in Richmond Hill, easterly to Warden Avenue, at which point it turns south along Warden Avenue, then east along a portion of Enterprise Avenue to Birchmount Road in Markham. This project was referred to as H3, with the initial land requirement secured in 2009 and construction is complete, subject to some minor works, such as streetscaping.

In the summer of 2013, construction of another portion of Highway 7, referenced as H2-VMC (Vaughan Metropolitan Centre) commenced on a four kilometre stretch from Highway 400 in Vaughan, easterly to the GO Transit rail line east of Keele Street. The land requirement for this portion of Highway 7 was secured in 2012.

The subject property is part of the next phase of development

The next phase of Highway 7 includes a three kilometre section in Vaughan between Pine Valley Drive and Highway 400, and an eight kilometre section from the GO Transit Rail line east of Keele Street in Vaughan, to Yonge Street in Richmond Hill. This section incorporates a portion of Centre Street and Bathurst Street in Vaughan.

This phase of the vivaNext project is referred to as H2, and construction is scheduled to commence in the third quarter of 2015, with completion scheduled for 2019. Eighty-five property owners are affected by land requirements on these portions of the corridor.

The property that is the subject of this report is located on Centre Street in Vaughan within the H2 project, and is shown in Attachment 1.

Construction of an intersection and access road on Centre Street will require the entire parcel at 1082 Centre Street

The property located at 1082 Centre Street (the subject property) in Vaughan is leased to a single business which operates as a Country Style restaurant. The lease expires in 2018.

In most circumstances, the Region requires only portions of parcels adjoining a given project. With respect to the subject property, the entire parcel is required. The property is located on the north side of Highway 7 and adjoins separately owned retail commercial facilities. Traffic signals will be constructed directly in front of the subject parcel. The new public road to be constructed as an access route to the surrounding commercial properties on the north side of Centre Street will consume the entire parcel at 1082 Centre Street.

Advance possession of the subject property is necessary to allow time to terminate the tenancy and facilitate demolition and site preparation

It is necessary to proceed with the acquisition of the subject property in advance of the balance of properties on the corridor, as additional time is required to demolish the existing building and prepare the site for construction of the intersection in the area. Possession of the property is required for the second quarter of 2015. In addition, it is anticipated that terminating the lease with the tenant, by negotiation or expropriation will require several months.

Council authorized the acquisition and expropriation of 1082 Centre Street in Vaughan concurrently in September 2014

On September 11, 2014, Council authorized the acquisition of 1082 Centre Street from the owner for the construction of the vivaNext bus rapid transit project for the Highway 7 corridor. The Region agreed to obtain the property with the lease in place, and negotiate the termination of the tenancy with the Country Style restaurant subsequent to closing of the purchase from the property owner (landlord). The purchase from the owner was completed on December 10, 2014.

Also on September 11, 2014, Council authorized the expropriation of the property, in the event the negotiated acquisition from the owner was not completed as approved. The interests to be expropriated were those of both the owner (landlord) and tenant.

The reason for including the expropriation from the owner in the Council approval was a precautionary measure, in case the acquisition was not completed. Although the expropriation and the purchase from the owner have been proceeding concurrently, the terms of the purchase from the owner are not nullified by the expropriation. The agreement provides a clause that allows the expropriation to proceed without superseding the purchase agreement.

Expropriation of the tenant's interest in the property is necessary to ensure the construction schedule is not compromised

It was necessary to continue with the expropriation process in order for the Region to have the statutory authority to terminate the lease with the tenant in the event negotiations are not completed in a timely manner. The lease provides for tenancy until 2018, but must be terminated and the property vacated so the building can be demolished and the site prepared for construction, which is scheduled to commence in the third quarter of 2015. The Region will have the authority to obtain vacant possession of the tenant's interests within three months of serving notices of expropriation and possession.

The Region acquired title to the land when the purchase with the owner closed on December 10, 2014. In addition, in order to proceed with the expropriation of the tenant's lease, the expropriation plan was registered on December 8, 2014. The *Act* requires the Region to serve an offer of compensation to the tenant within three months of registration of the plan. These offers are based on appraisals of market value and other damages if applicable.

4. Analysis and Options

An independent business valuation will form the basis of the offer to the tenant

Upon closing of the purchase from the property owner, all compensation owing to the owner was paid and no further amounts are owing or pending. With respect to the tenant, an independent consultant will be commissioned to provide an estimate of compensation payable, which may include estimates of damages related to relocation or business loss.

The compensation amount to be offered to the tenant will be presented for information at a future Council meeting

Due to the limited timeframe to complete the expropriation and obtain the information required to complete an analysis of compensation to which the tenant may be entitled, the compensation report was not available for this reporting period. The estimate of compensation to be offered to the tenant will be completed in February 2015. A report for information will be presented to Council upon receipt of the compensation report.

Environmental due diligence has been undertaken for the subject property

Phase II environmental testing, which included borehole drilling to collect soil and groundwater samples for further analysis was undertaken for the subject property. Some contaminants were found in both the soil and groundwater. A Remedial Action Plan, which identifies the options and a preferred approach for remediation and a preferred approach to removing the contaminants provided an estimated cost of \$108,000 to complete the work. The cost of doing the site remediation will be paid by the project.

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

The Region has served notices of expropriation and possession to the tenant. The business valuation required to support an offer of compensation to the tenant is currently being prepared and the proposed offer will be the subject of a further report to Council. The compensation payable to the tenant will be based on an independently commissioned business valuation.

6. Local Municipal Impact

The construction of dedicated bus lanes and related facilities, as well as road and intersection improvements along Highway 7, Centre Street and Bathurst Street is critical to the achievement of the vision for the corridor for the Region. Additionally, upon completion of construction this project will improve public transit facilities and enrich the streetscapes in Vaughan to support the Region's goal for higher density mixed use transit-oriented development.

7. Conclusion

A full buyout of the property located at 1082 Centre Street is necessary to construct an intersection and public access road. The property is occupied by a single tenant, which operates as a Country Style restaurant. Possession of the property by the Region is required prior to possession of the balance of lands on the corridor, to provide time to negotiate vacant possession with the tenant and demolish the building. Demolition of the building is scheduled for the second or third quarter of 2015, and construction along the corridor is to commence later in the summer.

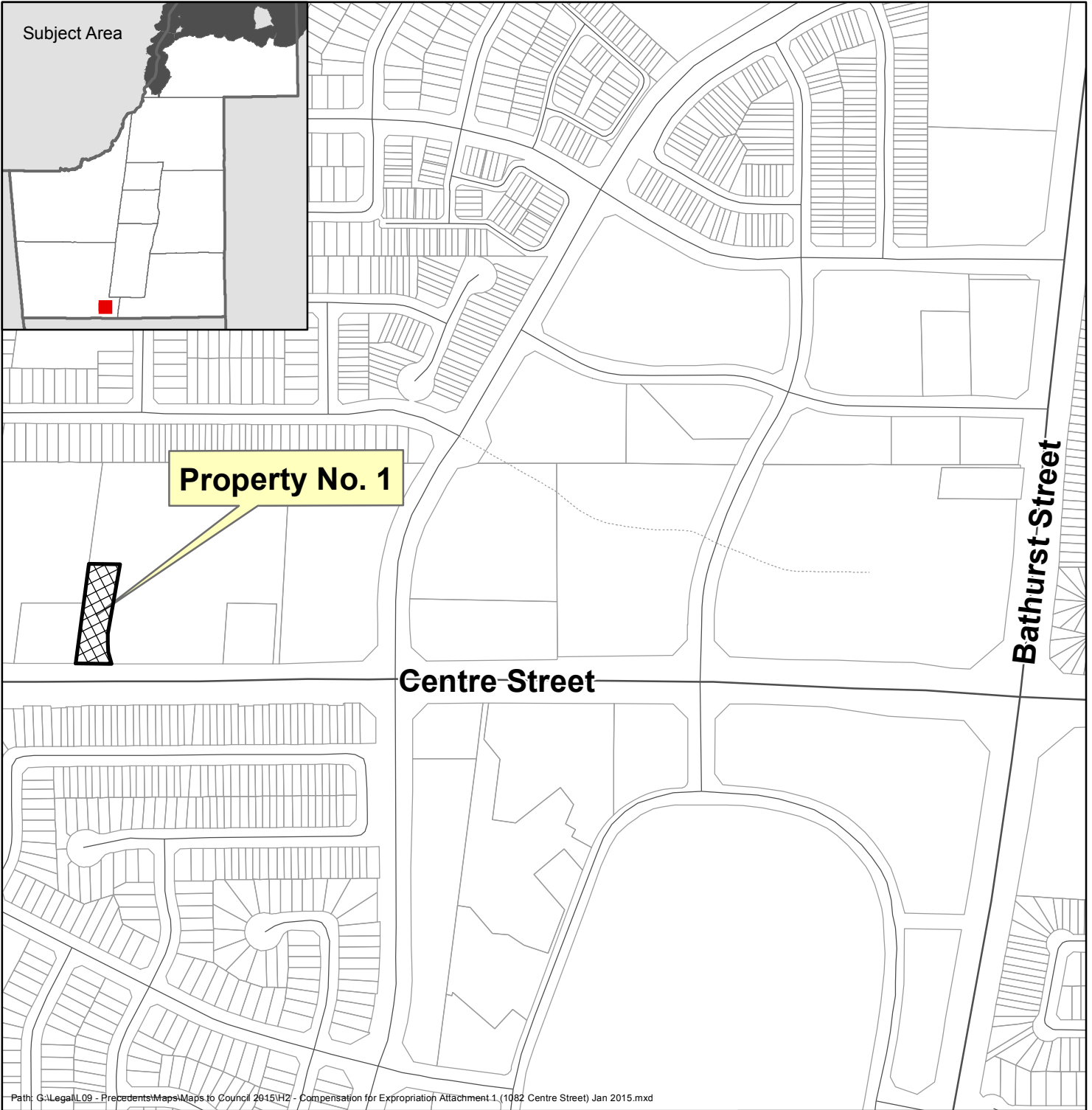
The Region purchased the property from the owner on December 10, 2014. Given that the expropriation was proceeding concurrently with the purchase an expropriation plan was registered on December 8. The terms of the purchase from the owner are not affected by the expropriation. That is, the expropriation is applicable to the tenant's lease on the property, but does not affect the agreement between the Region and the owner. An offer of compensation will be made with respect to terminating the lease with the tenant three years' prior to its expiry in 2018. The proposed offer will be based on an estimate of the compensation provided by an independently commissioned consultant and will be reported to Council for information as the report is completed.

For more information on this report, please contact René Masad, Director, Property Services Branch at ext. 71684.

The Senior Management Group has reviewed this report.

Attachments (1)

Accessible formats or communication supports are available upon request



Path: G:\Legal\L09 - Precedents\Maps\Maps to Council 2015\HZ - Compensation for Expropriation Attachment 1 (1082 Centre Street) Jan 2015.mxd

LOCATION PLAN

Compensation for Expropriation
 Viva Bus Rapid Transit Corridor
 1082 Centre Street between Dufferin Street and Bathurst Street
 City of Vaughan



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 Corporate Services Department
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Legend

-  Subject Property
-  Parcel
-  Road

