

Clause No. 21 in Report No. 12 of the Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on June 26, 2014.

## 21

### APPLICATION FOR APPROVAL TO EXPROPRIATE ADDITIONAL LANDS WIDENING AND RECONSTRUCTION OF BAYVIEW AVENUE PROJECT 80670, TOWN OF RICHMOND HILL

**Committee of the Whole recommends adoption of the recommendations contained in the following report dated June 6, 2014 from the Commissioner of Corporate Services:**

#### 1. RECOMMENDATIONS

It is recommended that:

1. Council authorize an application for approval to expropriate the following land within the Town of Richmond Hill:

No.	Owner	Municipal Address	Legal Description	Interest Required
1	Barat, Abdul	752 19 <sup>th</sup> Avenue	Part 1 on Plan 65R34832, together with a right of way as in MA62281 as amended by RH48945 together with a right of way as in MA62282	Fee Simple

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 held under the *Act*.

4. Council authorize the introduction of the necessary bylaws to give effect to these recommendations.

## 2. PURPOSE

This report seeks Council approval for an application to expropriate land required for the widening and reconstruction of Bayview Avenue, in the Town of Richmond Hill (*Attachment 1*).

On October 17, 2013, Council approved an application to expropriate a fee simple interest in a portion of the lands located at 752 19<sup>th</sup> Avenue. Staff has now determined that it is necessary to acquire all the lands located at 752 19<sup>th</sup> Avenue in order to reconstruct Bayview Avenue, north of 19<sup>th</sup> Avenue.

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

## 3. BACKGROUND

### **An Environmental Assessment for the reconstruction of Bayview Avenue from Elgin Mills Road to Stouffville Road was completed in 2008**

The Environmental Assessment (EA) for the widening and reconstruction of Bayview Avenue was approved by the Ministry of Environment in 2008. The EA recommended Bayview Avenue be reconstructed to a four-lane urban cross-section, between Elgin Mills Road and Glen Meadow Lane, and to a four-lane rural cross-section between Glen Meadow Lane and Stouffville Road. The existing road side ditches on Bayview Avenue, south of 19<sup>th</sup> Avenue, convey artesian waters and are populated by various species of fish. To make room for the expanded road, the EA recommended all of the widening and reconstruction work be done on the east side of the current roadway, in order to minimize impacts to the roadside ditch/cold water fishery on the west side of the road, as well as the relocation of the east stormwater ditch into a more protected stream environment. As such, additional property requirements were identified beyond the standard 36.0 metres right-of-way, for the cold water fishery relocation on the east side of the road.

### **It is necessary to acquire all the lands located at 752 19<sup>th</sup> Avenue**

Following Council's approval to proceed with expropriation on October 17, 2013, the requirements for land acquisition have changed. The original report was written in July 2013, and at that time the detailed design had not progressed to the point where the exact location of the stormwater ditch and associated side-slope grading had been determined. The detailed design has progressed to the 60% stage, and it has been determined that the proposed side-slope grading would undermine the southwest corner of the residence on

the property. The cost to construct a retaining wall to mitigate the impact of construction on the residence is expected to cost over \$1,000,000 and may have substantial maintenance costs. It is more cost effective to purchase the entire property than to build the retaining wall.

#### **4. ANALYSIS AND OPTIONS**

Since October 17, 2013, when Council approved an application to expropriate a fee simple interest in the lands located at 752 19<sup>th</sup> Avenue, staff has determined that it is necessary to acquire all the lands located at 752 19<sup>th</sup> Avenue, including the existing right-of-ways over adjoining lands for road access to 19<sup>th</sup> Avenue.

#### **Negotiations are proceeding to acquire the necessary properties with a view to commence construction in 2015**

Property acquisitions and permits need to be secured well in advance of construction, therefore it is recommended to start the expropriation process now. Due to site conditions, utility relocations will not be done in advance of construction in this area. Property negotiations to acquire the necessary lands commenced in 2012. Staff will continue to negotiate agreements of purchase and sale for the required interests.

#### **Initiating expropriation proceedings will ensure the construction schedule will not be compromised if negotiations for land acquisitions are delayed**

As approving authority, Council has previously authorized an application for approval to expropriate a fee simple interest in a portion of the lands located at 752 19<sup>th</sup> Avenue. The Region is now required to acquire all the lands located at 752 19<sup>th</sup> Avenue in order to reconstruct Bayview Avenue.

As all the lands located at 752 19<sup>th</sup> Avenue are now required, it is necessary for Council, as approving authority, to authorize an application for approval to expropriate the fee simple interest in the balance of the property, together with the existing access right-of-ways. Subsequently, notice may be served on the owner of the subject lands. Receipt of this notice will trigger an owner's right to request a Hearing of Necessity. There is also a statutory obligation to publish the notice.

This owner has indicated a willingness to sell the property on an amicable basis, however, the transaction has not been concluded. An agreement will be presented to Council for approval in due course. In order to ensure timely acquisition of the lands, it is recommended the expropriation process proceed in tandem. If title is obtained by amicable agreement in a timely manner, this expropriation process will be abandoned.

## **Link to key Council-approved plans**

### **From Vision to Results: 2011 to 2015 Strategic Plan**

Priority Area – Continue to Deliver and Sustain Critical Infrastructure

Improve mobility for users on Regional transportation corridors

The acquisition of this land will assist the Region in meeting its key strategic transportation needs.

## **5. FINANCIAL IMPLICATIONS**

The funds required to complete the property acquisition for this project are allocated in the approved 2014 Capital Budget for the Transportation and Community Planning Department.

## **6. LOCAL MUNICIPAL IMPACT**

The reconstruction of Bayview Avenue, in the community of Richmond Hill, will provide upgraded capacity to improve traffic operations and meet expected growth in the area.

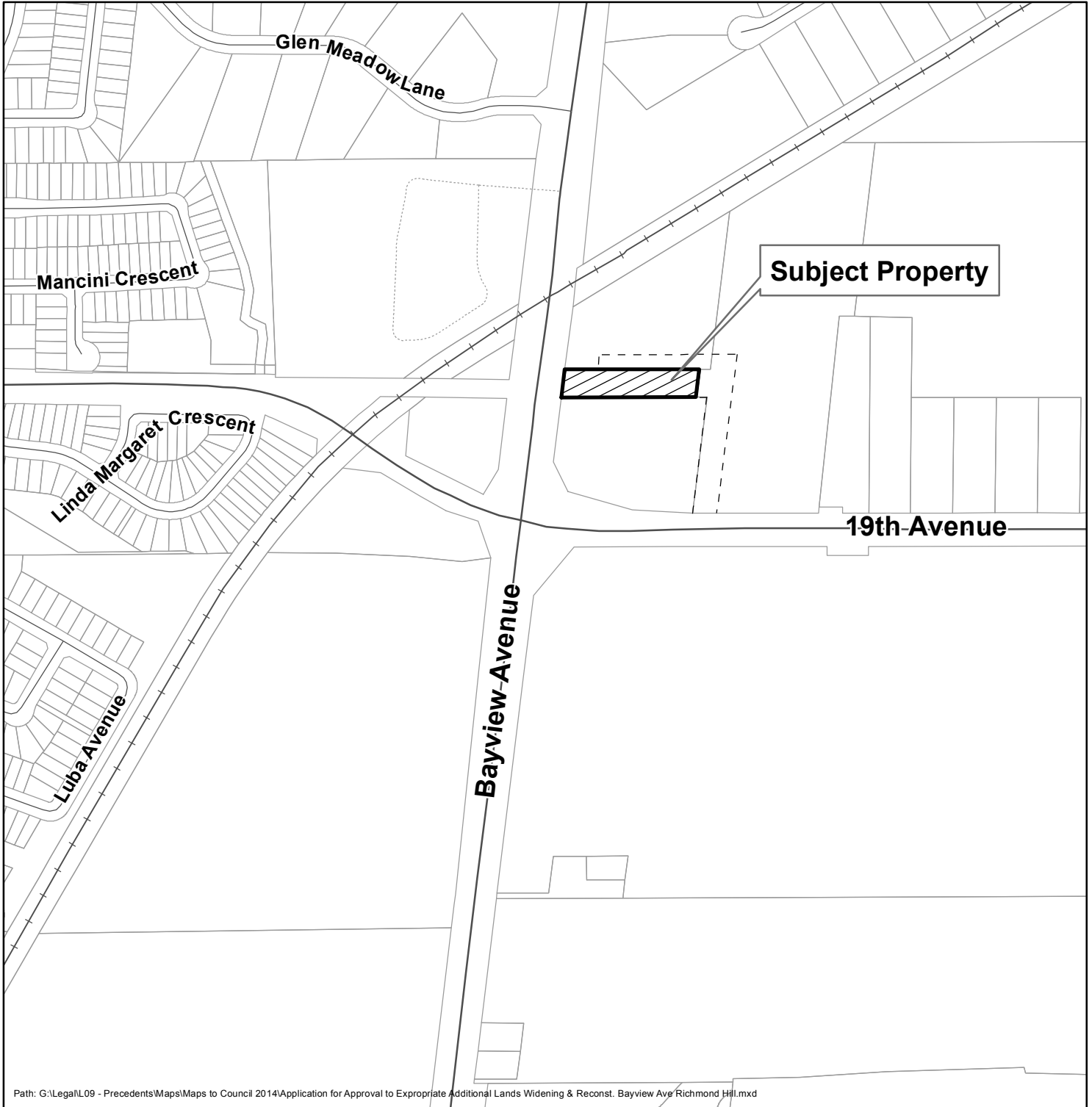
## **7. CONCLUSION**

This report seeks Council approval to expropriate the fee simple interest in the balance of the property, as a result of modifications to the design. Council previously approved the expropriation of a fee simple interest in a partial taking of the subject property. To ensure the project is not delayed, it is necessary to initiate the expropriation process for the balance of the property. Staff will continue to negotiate for the acquisition of the required property and expropriation proceedings will be abandoned in the event that negotiations are successful.

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.

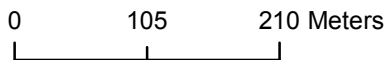
*Attachment (1)*



Path: G:\Legal\I09 - Precedents\Maps\Maps to Council 2014\Application for Approval to Expropriate Additional Lands Widening & Reconst. Bayview Ave\Richmond Hill.mxd







### LOCATION PLAN

Application for Approval to Expropriate Additional Lands  
 Widening and Reconstruction of Bayview Avenue Project 80670  
 Town of Richmond Hill



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### Legend

-  Interest Required
-  Subject Property
-  Parcel
-  Road
-  Railway
-  Mutual Driveway