

Clause No. 16 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.

16
APPLICATION FOR APPROVAL TO EXPROPRIATE
WIDENING AND CONSTRUCTION OF BUS RAPID TRANSIT CORRIDOR
HIGHWAY 7 WEST (H2-VMC) VIVANEXT PROJECT 90991
AND
FACILITIES AND TERMINALS – VMC TERMINAL PROJECT 90992
AND
TORONTO-YORK SPADINA SUBWAY EXTENSION PROJECT 90996
CITY OF VAUGHAN

Committee of the Whole recommends adoption of the recommendation 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 lands for the construction of the bus rapid transit corridor on Highway 7 West, Vaughan Metropolitan Centre Bus Terminal and TTC subway extension, within the City of Vaughan:

No.	Owner	Municipal Address	Legal Description	Interest Required
1	Calloway REIT (Sevenbridge) Inc.	3150 - 3120 Highway 7, 101 Edgeley Boulevard, Millway Avenue (west side), Southwest corner of Portage	Parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, Plan 65R-34869; and Parts 24, 31, 32, 33, 34, 35, 36, 37, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64 and 65, Plan 65R-34128	Temporary Easement commencing March 15, 2015 and expiring December 31, 2017 for TYSSE project
			Parts 86, 87, 88 &	Temporary Easement

No.	Owner	Municipal Address	Legal Description	Interest Required
		Parkway and Millway Avenue	93, Plan 65R-34128	commencing March 15, 2015 and expiring August 11, 2018 for TYSSE and VMC Bus Terminal projects
			Parts 80, 81, 90 and 91, Plan 65R-34128	Temporary Easement commencing March 15, 2015 and expiring August 11, 2018 for TYSSE and VMC Bus Terminal projects
			Parts 94 and 97, Plan 65R-34128	Temporary Easement commencing January 1, 2018 and expiring August 11, 2018 for VMC Bus Terminal project
			Parts 53 and 54, Plan 65R-34128	Temporary Easement commencing March 15, 2015 and expiring August 11, 2018 for TYSSE and vivaNext projects
			Parts 1 and 2, Plan 65R-34855	Temporary Easement commencing February 1, 2015 and expiring August 11, 2018 for TYSSE and/or VMC Bus Terminal projects
2	Hudson's Bay Company	3150 - 3120 Highway 7, 101 Edgeley Boulevard, Millway Avenue (west side), Southwest corner of Portage Parkway and Millway	Parts 78, 79, 82, 86, 88, 89, 92, 93, 94, 95 and 96, Plan 65R-34128	Leasehold Interest of the Hudson's Bay Company, as registered in Instrument No. YR672237 for TYSSE and VMC Bus Terminal projects
			Part 94 and 97, Plan 65R-34128	Leasehold Interest of the Hudson's Bay Company, as registered in

No.	Owner	Municipal Address	Legal Description	Interest Required
		Avenue		Instrument No. YR672237, commencing March 15, 2013 and ending August 11, 2018 for TYSSE and VMC Bus Terminal projects
3	Toromont Industries Ltd.	3131 Highway 7 West	Parts 2, 3, 4 and 5, Plan 65R-34898	Fee Simple for vivaNext project
			Parts 19, 20 and 29, Plan 65R-34898	Permanent Surface Easement for TYSSE project
			Part 7, Plan 65R-34898	Permanent Subsurface Easement for TYSSE project
			Parts 14, 22, 23, 24, 25, 30 and 31, Plan 65R-34898	Permanent Surface and Subsurface Easements for TYSSE project
			Parts 9, 12, 14, 15, 16, 17, 18, 21, 22, 24, 25, 26, 28, 29, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 44, 47, 48 & 49, Plan YR1625307; and Parts 11, 12, 16 and 21, Plan 65R-34898	Temporary Easement commencing March 15, 2015 and expiring December 31, 2017 for TYSSE project
			Parts 1, 6, 8, 10, 13 and 18, Plan 65R-34898	Temporary Easement commencing March 15, 2015 and expiring August 11, 2018 for TYSSE and vivaNext projects
	The fee simple interests required by the vivaNext project are described as all right, title and interest for the municipal 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.			

No.	Owner	Municipal Address	Legal Description	Interest Required
				<p>The temporary easements required by the vivaNext project are described as a temporary limited interest for a term of four (4) years commencing on registration of the plan of expropriation in, under, over, along and upon and for municipal purposes including, but not limited to, entering on the lands 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 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>
				<p>The temporary easements required by the VMC Bus Terminal project are for the purpose of entering on the lands with all vehicles, machinery, workers and other material to provide for the construction of the Vaughan Metropolitan Centre Bus Terminal, passenger pick-up and drop-off area, and works ancillary thereto.</p>
				<p>The permanent surface easements in, on, over and through the lands required by the Toronto-York Spadina Subway Extension project are for the purposes of entering upon and occupying the lands with all necessary machinery, equipment, workers and other material required for, or in connection with, the construction, operation and maintenance of the Subsurface System.</p>
				<p>The permanent subsurface easements in, on, over and through the lands required by the Toronto-York Spadina Subway Extension project are for the permanent relocation and future installation of a sanitary sewer, storm sewer, hydro utilities, water main utilities and all works ancillary thereto.</p>
				<p>The temporary easements required by the Toronto-York Spadina Subway Extension project are for the purpose of entering on the lands with all vehicles, machinery, workers and other material to provide for the construction of the Toronto-York Spadina Subway Extension project 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 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 property interests for the Toronto-York Spadina Subway Extension, H2-VMC corridor of the vivaNext bus rapid transit and Vaughan Metropolitan Centre Bus Terminal projects (*Attachments 1 and 2*).

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

3. BACKGROUND

Construction of the Toronto-York Spadina Subway Extension (TYSSE) project is underway

The Toronto-York Spadina Subway Extension (TYSSE) project involves the construction of subway tunnels, stations, emergency exit buildings, power substations, parking lots, roads and other subway-related infrastructure. The project extends from Steeles Avenue West to Highway 7, in the City of Vaughan.

On November 29, 2009, the YYSSE project received Ministry of the Environment approval of the Environmental Assessment Report prepared by the Region, with respect to the part of the project located within the Region.

In 2010 and 2011, the initial land requirements were acquired by negotiation and expropriation. Construction has been ongoing since 2011, with tunneling completed. Negotiations and expropriations are now proceeding to acquire additional minor land requirements and temporary easement extensions.

Construction of the vivaNext project at the Vaughan Metropolitan Centre will begin upon completion of TYSSE construction on Highway 7

To facilitate bus rapid transit along portions of the Highway 7, Yonge Street and Davis Drive corridors, the Region, via York Region Rapid Transit Corporation (YRRTC), is improving road infrastructure, enhancing streetscaping and boulevards, and constructing dedicated lanes for Viva buses. The entire project is called vivaNext.

The construction of vivaNext is ongoing along Davis Drive, in Newmarket, and Highway 7, in Markham. This report addresses the portion of the H2-VMC corridor, in Vaughan, that intersects the TYSSE project.

On November 9, 2006, the H2-VMC corridor received approval of the Environmental Assessment Report from the Ministry of the Environment.

This portion of the H2-VMC corridor is scheduled to begin construction in 2015. Negotiations and expropriations are now proceeding to acquire land requirements.

Construction of the Vaughan Metropolitan Centre (VMC) Bus Terminal project will begin upon phased completion of TYSSE construction overlapping the bus terminal site

The Vaughan Metropolitan Centre (VMC) Bus Terminal will be located at the northern limit of the TYSSE project. It is part of a proposed multi-modal transportation hub consisting of the YRT bus terminal, passenger pick-up and drop-off area, vivaNext bus rapid transit station and TTC subway station. All the facilities will be connected by sidewalks and underground tunnels.

The components of the TYSSE project within York Region were approved by the Ministry of the Environment, in 2008, based on the “Response to the Conditions of Approval Vaughan North-South Subway Alignment Optimization Report”. Supplementary reports identifying changes to the station alignment and bus facilities, consistent with the amending procedure under the original approval, were accepted by Ministry of Environment in 2010 and 2012.

In 2012, the Region, TYSSE staff and property owners held discussions to identify a suitable site for the bus terminal. In March 2013, the initial land requirements for the VMC Bus Terminal were acquired by negotiation. Construction is scheduled to begin in 2015. Negotiations and expropriations are now proceeding to acquire additional land requirements.

4. ANALYSIS AND OPTIONS

Negotiations are ongoing to acquire the necessary properties in time for the various stages of construction by each project

Staff is currently negotiating the acquisition of two properties on the north and south sides of Highway 7, west of Jane Street. The TYSSE project requires temporary construction easement extensions, and additional lands for minor permanent utility and access easements. The temporary easement extensions are required to ensure that construction of the TYSSE project continues without disruption. The permanent easements are required to protect the underground utility infrastructure and allow for surface access. The vivaNext project requires lands for many uses and activities such as fee simple interests for road widening, as well as temporary easements for driveways, grading and temporary working areas. The VMC Bus Terminal project requires additional lands for temporary construction easement extensions and a new temporary construction easement for use by both VMC Bus Terminal and TYSSE projects.

The ownership interests include fee simple, permanent easement and temporary easement. Possession of lands is required on various dates in 2015.

The vivaNext project will occupy lands currently being used by the TYSSE project. VivaNext construction on this overlapping area will begin after TYSSE completes its construction on Highway 7 and, subsequently, hands over the lands to the vivaNext project. Each project will be responsible for any and all costs associated with the duration of its use of the lands.

The VMC Bus Terminal project will occupy lands currently being used by the TYSSE project. Both projects will also be under construction at the same time beginning in 2015. The TYSSE project will hand over the VMC Bus Terminal project requirements, excluding areas required for continuing TYSSE construction, at a time to be agreed upon between both projects.

There is also an encumbrance on title related to an existing leasehold interest of one tenant. The acquisition of this leasehold interest is required in order to deliver clear title to the Region.

Initiating expropriation proceedings will ensure the construction schedule will not be compromised if amicable acquisitions are unsuccessful

It is anticipated that negotiations will be successful on some properties. These agreements of purchase and sale will be presented to the applicable approving authorities in due course. However, it is recommended that the expropriation process proceed, concurrently, with ongoing negotiations in order to gain possession of all lands on time for the various stages of construction by each project. Timely possession of all lands will reduce the risk of significant property escalation costs and construction delays.

The first step in the process requires Council, as approving authority, to authorize an application for approval to expropriate. Subsequently, notice may be served on owners 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.

Staff will continue to negotiate agreements of purchase and sale for the required interests until an expropriation plan is registered.

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

Fee simple compensation will be allocated to the vivaNext project. Permanent easement compensation will be allocated to the TYSSE project. Temporary easement compensation will be allocated based on each project's requirements and duration of use. Each project will be responsible for any and all costs associated with the duration of its use of the lands.

The funds required to complete the TYSSE portion of the acquisition are included in the \$2.6B TYSSE project budget, of which the Region contributes up to \$351M. The costs are fully recoverable from the TYSSE budget. The TYSSE acquisition includes minor permanent easements and temporary easement extensions of various durations.

The funds required to complete the vivaNext portion of the acquisition are included in the 2014 YRRTC Capital Budget. The project is funded by the Province, via the Metrolinx Master Agreement. The vivaNext acquisition includes fee simple and temporary easements of various durations.

The funds required to complete the VMC Bus Terminal portion of the acquisition are included in the TYSSE project budget and/or the 2014 YRRTC Capital Budget. The allocation to each budget will be mutually agreed to by each project after the finalization of planning and staging activities. The VMC Bus Terminal acquisition includes temporary easements of various durations.

6. LOCAL MUNICIPAL IMPACT

The construction of the vivaNext, TYSSE and VMC Bus Terminal projects are critical to the achievement of the vision for each corridor and facility, for both the Region and City of Vaughan. Additionally, these projects will improve public transit facilities and enrich the streetscapes to support the Region's goal for higher density mixed use transit-oriented development.

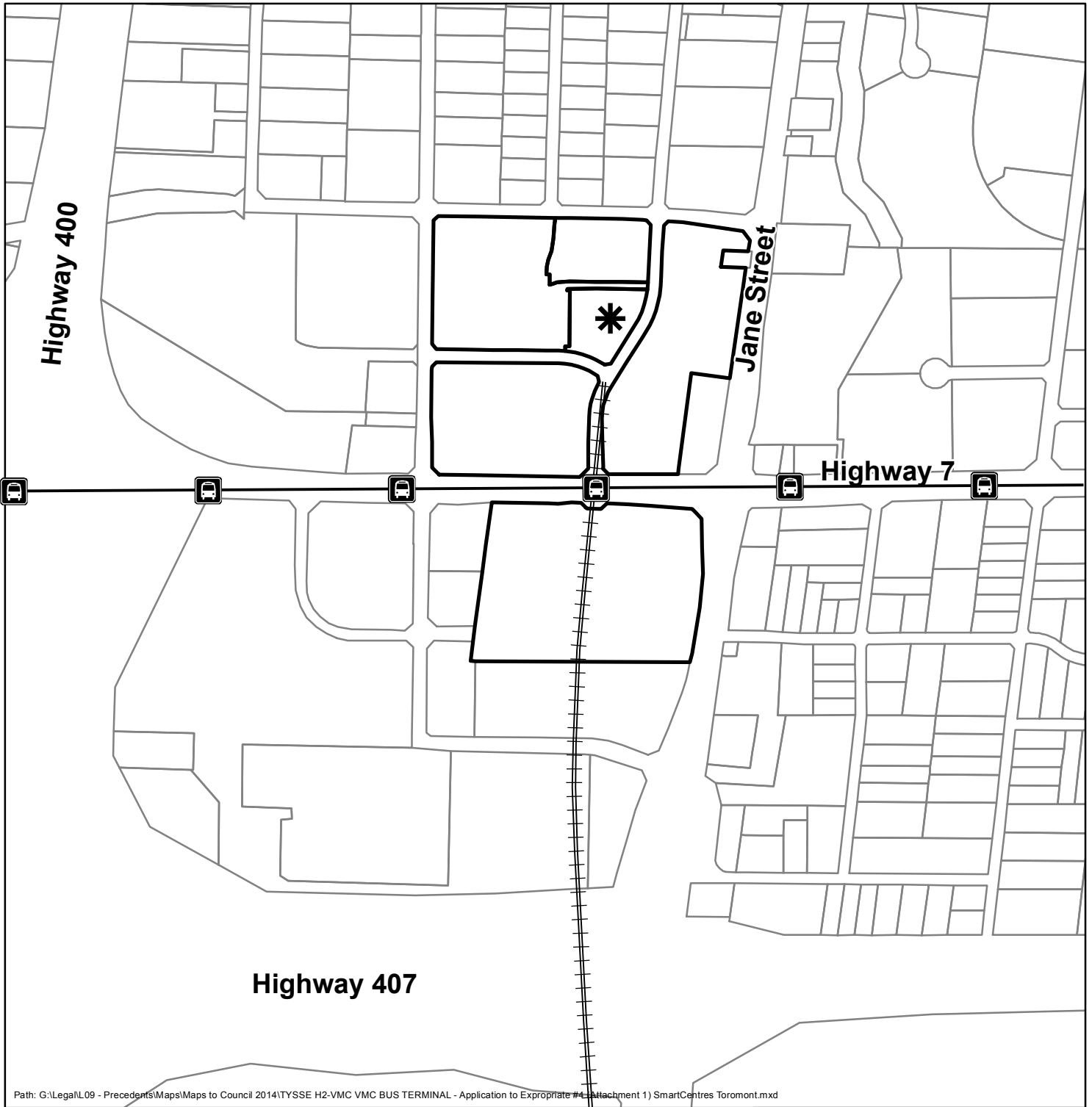
7. CONCLUSION

This report seeks Council approval to expropriate land requirements for the construction of the vivaNext, TYSSE and VMC Bus Terminal projects. To ensure timely possession of all lands for construction, it is necessary to initiate the expropriation process. Staff will continue to negotiate the acquisition of the required properties and expropriation proceedings will be abandoned where negotiations are successful. Accordingly, it is recommended that Council approve the acquisition of the lands detailed in this report.

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 (2)



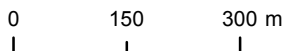
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LOCATION PLAN






Application for Approval to Expropriate
 Widening and Construction of Bus Rapid Transit Corridor
 Highway 7 West (H2-VMC) vivaNext Project 90991,
 Facilities And Terminals – VMC Terminal Project 90992,
 Toronto-York Spadina Subway Extension Project 90996, City of Vaughan

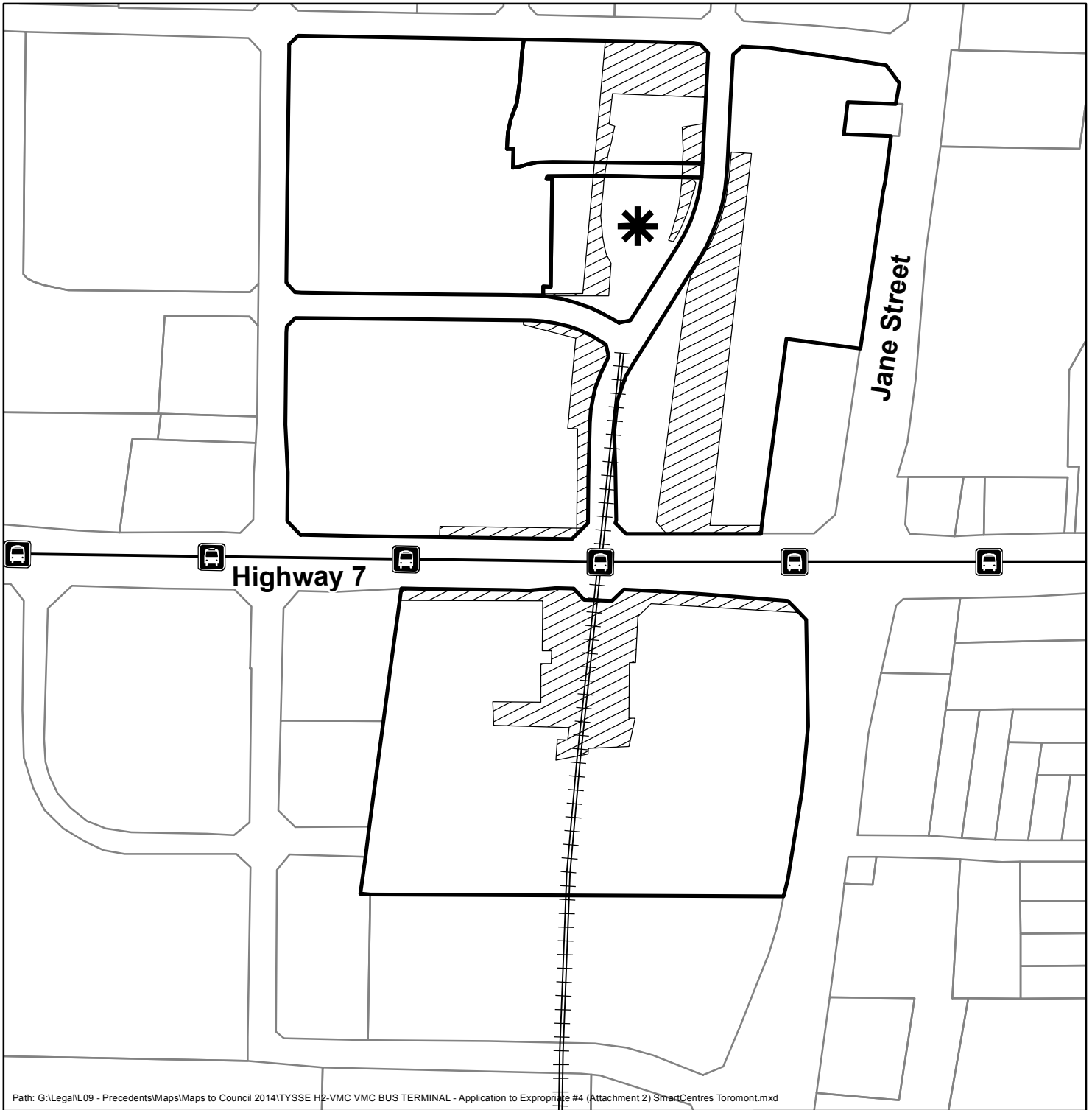


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Legend

-  Subject Properties
-  Subway Alignment
-  VMC Bus Terminal
-  vivaNext Rapidway
-  Parcel



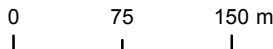
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LOCATION PLAN







Application for Approval to Expropriate
 Widening and Construction of Bus Rapid Transit Corridor
 Highway 7 West (H2-VMC) vivaNext Project 90991,
 Facilities And Terminals – VMC Terminal Project 90992,
 Toronto-York Spadina Subway Extension Project 90996, City of Vaughan



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Legend

-  Subject Properties
-  Approximate Requirements
-  Subway Alignment
-  VMC Bus Terminal
-  vivaNext Rapidway
-  Parcel