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AUTHORITY TO ENTER INTO SITE PLAN CONTROL AGREEMENT FOR A GAS REGULATOR FACILITY ON REGIONAL LANDS

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report dated April 10, 2012, from the Commissioner of Corporate Services.

1. RECOMMENDATIONS

It is recommended that:

1. Council authorize the Commissioner of Corporate Services to execute a site plan control agreement with the Town of Markham and/or Enbridge Gas Distribution Inc. for the construction of a natural gas regulator on the Region's lands, to the satisfaction of the Regional Solicitor as to form and content.
2. Council authorize the Commissioner of Corporate Services to execute any other agreements or documents necessary to facilitate approvals required for the construction of a natural gas regulator by Enbridge on the Region's lands, to the satisfaction of the Regional Solicitor as to form and content.

2. PURPOSE

This report is to provide authority to the Commissioner of Corporate Services to enter into a site plan control agreement with the Town of Markham ("Markham") and Enbridge Gas Distribution Inc. ("Enbridge") for the construction of a natural gas regulator facility (the "Facility") on the Region's lands.

3. BACKGROUND

The acquisition of the land

The land is located between old Ninth Line and the Box Grove Bypass road in the Town of Markham (*Attachment 1*), and was acquired by the Region in July 2011 as a part of lands required by the Southeast Collector project. The acquisition was authorized by Report No. 6, Clause 9 of the Finance and Administration Committee, passed by Council on June 23, 2011.

Registered on title of the land at the time of the transfer to the Region was an agreement to grant a permanent easement to Enbridge to provide for the Facility. The Facility is

located at the north end of the Region's land and has an area of approximately 453 m² (See *Attachment 2*). The construction of the Facility is not related to any Regional project.

Enbridge seeks planning approvals for the Facility

Enbridge is a major natural gas supplier and retailer with facilities throughout the Region. It provides natural gas services to residents and businesses throughout the Region. This Facility is required to service residents and businesses in Markham.

Enbridge has been in contact with the Town of Markham in order to obtain approval for the construction of the Facility. Markham staff has informed Enbridge that it must obtain site plan control approval before a building permit can be obtained for construction.

In March 2012, the Region received a site plan agreement from Markham for execution for the construction of the Facility. Markham staff has taken the position that as the owner of the land the Region must enter into the site plan control agreement with Markham.

4. ANALYSIS AND OPTIONS

Markham requires the site plan control agreement to be executed by the Region as the registered owner of the land

In the normal course of the development of a property, an owner would bring a site plan control application for any structures to be built. In the current situation, the Facility is solely an Enbridge project, and the Region has no part in its construction or maintenance. The Region has only granted Enbridge the authority to use the land for its Facility.

The basis for Markham's position is that the *Planning Act* states a municipality may enter into a site plan control agreement with the owner of the land. As a result, Markham requires the Region to sign a site plan control agreement for the Facility. The Region will then transfer all responsibility for any site plan control conditions and liabilities to Enbridge. Enbridge has indicated to Region staff that it will accept this responsibility.

Existing delegated Site Plan Control authority does not provide for this agreement

The existing delegated authority to enter into site plan control agreements, found in By-law Nos. AG-028-93-108 and 2011-58, allows for the Region to issue comments and conditions of site plan approval and for the Commissioner of Transportation & Community Planning to enter into site plan agreements to enforce the Region's conditions.

The authority to enter into site plan control agreements within the Execution of Documents Bylaw (Bylaw No. 2011-58) pertains to agreements relating to Regional site plan approvals. As mentioned, this Facility does not relate to a Regional approval as anticipated by the bylaw.

Environmental Services has indicated that the Facility does not interfere with the construction or operation of the Southeast Collector Trunk Sewer

As this land was acquired for the Southeast Collector project, Environmental Services staff was consulted regarding the impact of the proposed Facility on this project. Environmental Services staff has indicated that the Facility will have no impact on any of the construction activities or operation of the Southeast Collector Trunk Sewer.

5. FINANCIAL IMPLICATIONS

The execution of this site plan control agreement with the Town of Markham and Enbridge will result in the fulfillment of the agreement to grant an easement, which will result in a \$55,100 payment to the Region from Enbridge for the easement.

Any liability and/or financial responsibilities arising from the site plan control agreement and/or the Facility will be assumed by Enbridge.

6. LOCAL MUNICIPAL IMPACT

The Town of Markham's requirement that the Region enter into the site plan control agreement as the owner of the land will be satisfied and Markham will be able to issue a building permit to Enbridge for the construction of the Facility.

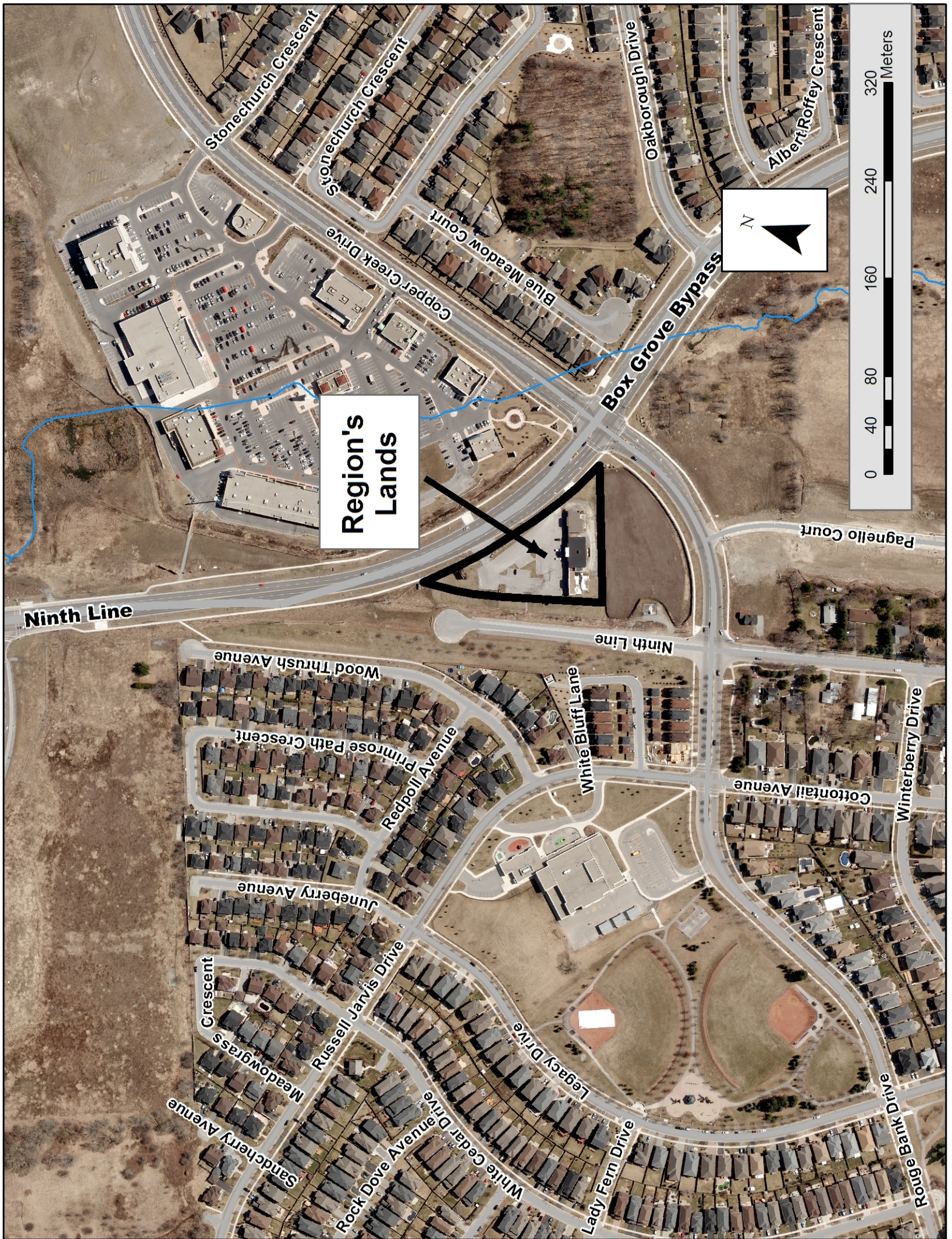
7. CONCLUSION

Providing the authority to enter into the site plan control agreement as the owner of the land will allow Enbridge to construct its Facility and continue to provide natural gas services to the Region's residents and businesses. This Facility and its corresponding agreement will not adversely affect the Region's use of its land.

For more information on this report, please contact Gabe Szobel, Senior Counsel – Development Law at Ext. 1433 or Grant Robinson, Engineering Manager at Ext. 5107.

The Senior Management Group has reviewed this report.

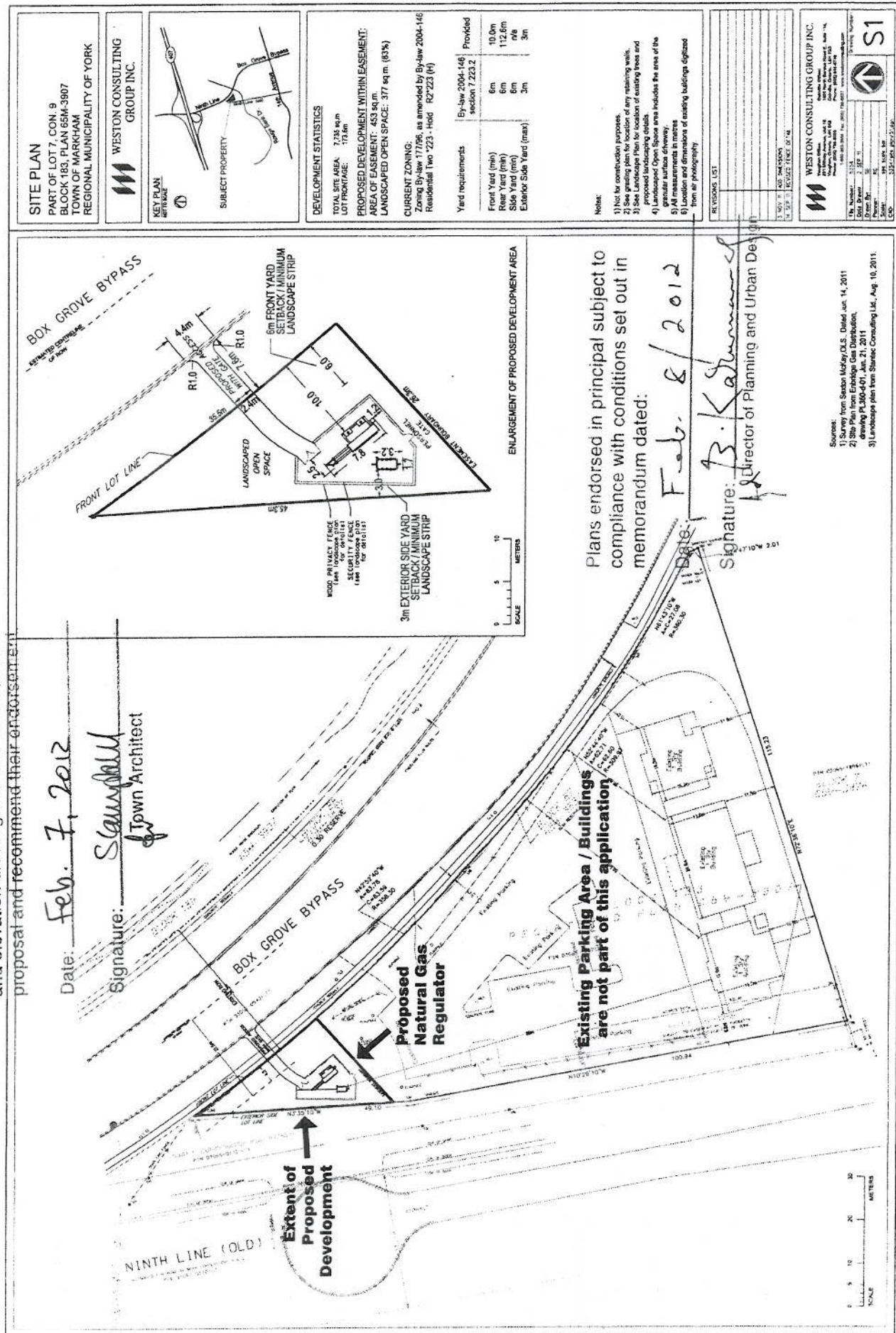
(The two attachments referred to in this clause were included in the agenda for the May 3, 2012 Committee meeting.)



The Design Group has reviewed the site plan and elevation drawings for this development and proposal and recommend their endorsement.

Date: Feb. 7, 2012

Signature: [Signature]
Town Architect



SITE PLAN

PART OF LOT 7, CON. 9
BLOCK 183, PLAN 65M-3807
TOWN OF MARKHAM
REGIONAL MUNICIPALITY OF YORK

WESTON CONSULTING GROUP INC.

KEY PLAN



DEVELOPMENT STATISTICS

TOTAL SITE AREA: 7,735 sq.m.
LOT FRONTAGE: 173.6m
PROPOSED DEVELOPMENT WITHIN EASEMENT:
AREA OF EASEMENT: 453 sq.m.
LANDSCAPED OPEN SPACE: 377 sq.m. (83%)

CURRENT ZONING:
Zoning By-law 17/796, as amended by By-law 2004-146
Residential Two "R23" - Hold "R2-223 (H)

Yard requirements	By-law 2004-146 section 1223.2	Provided
Front Yard (min)	6m	10.0m
Rear Yard (min)	6m	112.6m
Side Yard (min)	6m	n/a
Exterior Side Yard (max)	3m	3m

Notes:

- 1) Not for construction purposes.
- 2) See grading plan for location of any retaining walls.
- 3) See Landscape Plan for location of existing trees and proposed landscaping details.
- 4) Landscaped Open Space area includes the area of the proposed development.
- 5) All measurements in metres.
- 6) Location and dimensions of existing buildings digitized from air photography.

REVISIONS LIST

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	14 FEB 2012

WESTON CONSULTING GROUP INC.

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- Sources:
- 1) Survey from Sector McKay/DLS, Dated Jun. 14, 2011
 - 2) Site Plan from Enbridge Gas Distribution, drawing PL 350-4-01, Jun. 21, 2011
 - 3) Landscape plan from Starline Consulting Ltd., Aug. 10, 2011.

Plans endorsed in principal subject to compliance with conditions set out in memorandum dated:

Feb. 8/2012

Signature: [Signature]
Director of Planning and Urban Design