

Clause 23 in Report No. 9 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on May 17, 2018.

23

Compensation for Expropriation
Viva Bus Rapid Transit Corridor
16581-16599 Yonge Street
Town of Newmarket

Committee of the Whole recommends adoption of the following recommendation contained in the report dated April 26, 2018 from the Commissioner of Corporate Services:

1. Council authorize the Commissioner of Corporate Services to make offers of compensation to the owners of the lands in the Town of Newmarket, as set out in Attachment 1, which were acquired in accordance with the *Expropriations Act* (the "Act").

Report dated April 26, 2018 from the Commissioner of Corporate Services now follows:

1. Recommendations

It is recommended that:

1. Council authorize the Commissioner of Corporate Services to make offers of compensation to the owners of the lands in the Town of Newmarket, as set out in Attachment 1, which were acquired in accordance with the *Expropriations Act* (the "Act").

2. Purpose

This report seeks Council approval to serve offers of compensation under Section 25 of the *Act* to the owners whose lands have been expropriated at 16581-16599 Yonge Street, in the Town of Newmarket, for the vivaNext bus rapid transit project. The property location is shown on the map in Attachment 2.

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Private Attachment 1 to this report will be considered in private session because it relates to land acquisition by the Region.

3. Background and Previous Council Direction

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

To facilitate public transit along Yonge Street, York Region Rapid Transit Corporation (YRRTC), on behalf of the Region, is undertaking road infrastructure improvements and constructing dedicated centre lanes for Viva buses, with enhanced street features and boulevards.

Council approved the expropriation of multiple properties on Yonge Street in the Town of Newmarket in [October 2013](#), [January 2014](#) and [June 2016](#). Lands were also acquired amicably by negotiation. The approvals secured fee simple lands, permanent easements and temporary easements. Construction is underway and is scheduled to be completed in December 2019.

An additional property requirement was identified during corridor design

This is a design build project and the drawings have now been finalized. The design requires additional fee simple and temporary easement interests at 16581-16599 Yonge Street for a bus shelter and grading purposes. This property has not previously been subject to land requirements for the vivaNext project.

This report is for the third of the three steps in the Council approval process for expropriations

On [September 21, 2017](#), Council authorized the application for approval to expropriate and the expropriation of interests from owners who had not requested a Hearing of Necessity. No requests for a Hearing of Necessity were received for the subject property.

Figure 1 below summarizes the three steps in the process for obtaining approval by Council for expropriation. This report is the third and final step in the expropriation approval process. Upon approval by Council of this step, completion of the process will involve the Region serving offers of compensation to the owners and obtaining possession of the land requirements.

Figure 1
Council Approval Steps



4. Analysis and Implications

Possession of the expropriated land will be obtained after serving the offers of compensation

The Region acquired ownership of the land when the expropriation plan was registered at the Land Registry Office on March 26, 2018. In accordance with the *Act*, the Region cannot obtain possession until a minimum of three months after notifying an owner that the expropriation plan has been registered. In addition, it is necessary to make offers of compensation to owners to obtain possession of the expropriated land. The offers will be delivered in June 2018 with possession shortly thereafter.

An independent report has established the compensation which forms the basis of the offers

An independent consultant was commissioned to provide an estimate report of compensation. The report includes appraisal of market value for the land expropriated and, if applicable, estimates of compensation for damages. These damages may include loss of improvements (such as landscaping or parking) and injurious affection (the loss of value to the lands retained by the owner).

To ensure there are no delays to the project, and to avoid interest penalties in the event that offers are not served within three months of registering the expropriation plan in accordance with the *Act*, compensation estimates are based on appraisals that had not been submitted in final form at the time of writing of this report. Offers of compensation will be based on the final appraisal estimates.

Section 25 of the *Act* requires the Region to make two offers of compensation to an owner. The first offer is for full compensation of the market value of the lands expropriated and any damages for lost improvements and injurious affection. If

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the owner accepts the offer, then the owner, with a few exceptions, accepts the offer in full satisfaction of any claims the owner may have with respect to the expropriation.

The second offer is to pay the owner the market value of the lands expropriated and does not include an offer to pay any other damages such as damages for loss of improvements or injurious affection. If an owner accepts the second offer, the owner may make a future claim for additional compensation in accordance with the *Act*.

In the event that an owner does not accept the first offer of compensation, staff will endeavour to negotiate a full and final settlement.

Environmental due diligence is underway on the lands

Environmental due diligence is underway on the fee simple requirement and in the vicinity of the property. The results will be reviewed by staff in consultation with Legal Services. In the event impacts or other environmental concerns are identified with respect to the environmental condition of the property, the Region will take appropriate action to minimize potential exposure to the Region. Any significant issues will be reported back to Council, if necessary.

5. Financial Considerations

The funding for the property acquisition is included in the 2018 YRRTC Capital Budget. The project is funded by the Province, via the Metrolinx Master Agreement.

6. Local Municipal Impact

This project will improve public transit and streetscape along Yonge Street for the residents of Newmarket and York Region.

7. Conclusion

On March 26, 2018, an expropriation plan was registered for lands required at 16581-16599 Yonge Street, in the Town of Newmarket. The *Act* requires that offers of compensation for expropriated lands be served on the registered owners before taking possession. The proposed offers are based on estimates

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provided by an independently commissioned appraiser. It is recommended that the offers set out in this report be served in accordance with the *Act*.

For more information on this report, please contact Michael Shatil, Director, Property Services Branch at 1-877-464-9675 ext. 71684.

The Senior Management Group has reviewed this report.

April 26, 2018

Attachments (2)

Private Attachments (1)

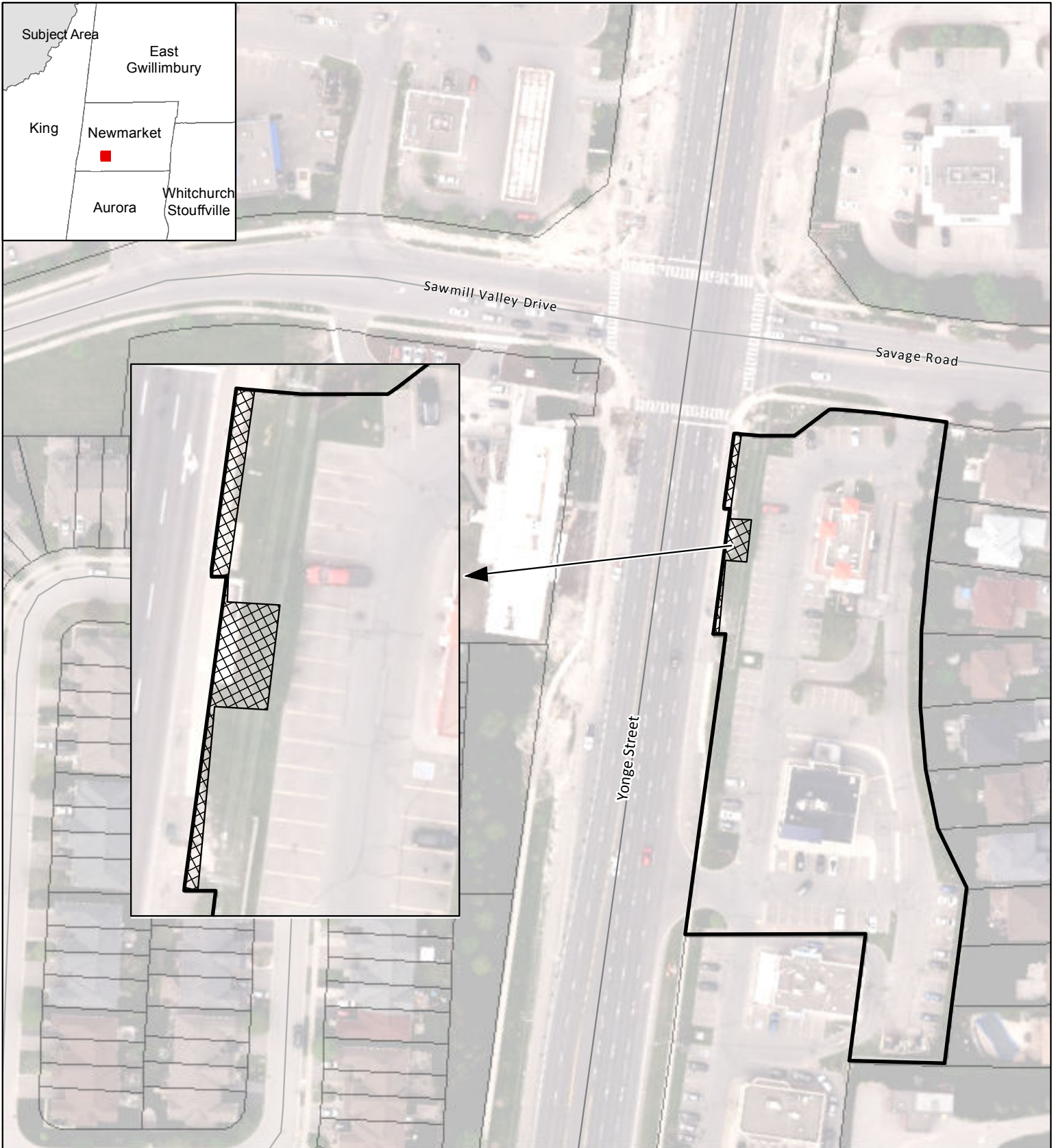
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Accessible formats or communication supports are available upon request

**Property Schedule
Compensation for Expropriation
Viva Bus Rapid Transit Corridor
16581-16599 Yonge Street
Town of Newmarket**

No.	Owner	Municipal Address	Legal Description	Interest Required
1.	Gapper-Duncan Inc.	16581-16599 Yonge Street Newmarket	Part 1, 3, Plan YR2809145	Fee Simple
			Part 2, Plan YR2809145	Temporary Easement

The temporary easement required is described as a temporary limited interest commencing on registration of the plan of expropriation and expiring on December 31, 2019 in, under, over, along and upon and for municipal purposes including, but not limited to, entering on the lands with all vehicles, machinery, workmen 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 Yonge Street, including associated local roads, and to provide designated lanes for the vivaNext transit system and works ancillary thereto.

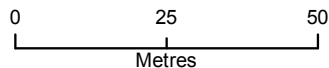


Produced by:
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Property Services, Corporate Services
April 2018





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Location Plan
Compensation for Expropriation
Viva Bus Rapid Transit Corridor
16581-16599 Yonge Street
Town of Newmarket
May 10, 2018



Legend

-  Subject Property
-  Interest Required
-  Road
-  Parcel