

Clause 12 in Report No. 14 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on October 19, 2017.

12

Expropriation of Land - Viva Bus Rapid Transit Corridor - Yonge Street from Sawmill Valley Drive/Savage Road to Davis Drive - Town of Newmarket

Committee of the Whole recommends adoption of the following recommendations contained in the report dated September 28, 2017 from the Commissioner of Corporate Services:

1. Council authorize an application for approval to expropriate the lands identified in Attachment 1 (the “Lands”) for the construction of the vivaNext bus rapid transit corridor on Yonge Street, in the Town of Newmarket.
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 (Hearing of Necessity) held under the Act.
4. Council, as approving authority, approve the expropriation of the Lands provided there is no Hearing of Necessity requested in accordance with the Act. Council approval is deemed to be given effective 31 days following the publication of the Notice and when a Hearing of Necessity is not requested in accordance with the Act.
5. Where approval to expropriate the Lands is given, the Commissioner of Corporate Services be authorized to register a certificate of approval and plan of expropriation, and execute and serve any notices required under the Act.
6. Where approval to expropriate the Lands is given, Council authorize the introduction of the necessary bylaw to give effect to these recommendations.

Report dated September 28, 2017 from the Commissioner of Corporate Services now follows:

Expropriation of Land
Viva Bus Rapid Transit Corridor
Yonge Street from Sawmill Valley Drive/Savage Road to Davis Drive
Town of Newmarket

1. Recommendations

It is recommended that:

1. Council authorize an application for approval to expropriate the lands identified in Attachment 1 (the “Lands”) for the construction of the vivaNext bus rapid transit corridor on Yonge Street, in the Town of Newmarket.
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 (Hearing of Necessity) held under the *Act*.
4. Council, as approving authority, approve the expropriation of the Lands provided there is no Hearing of Necessity requested in accordance with the *Act*. Council approval is deemed to be given effective 31 days following the publication of the Notice and when a Hearing of Necessity is not requested in accordance with the *Act*.
5. Where approval to expropriate the Lands is given, the Commissioner of Corporate Services be authorized to register a certificate of approval and plan of expropriation, and execute and serve any notices required under the *Act*.
6. Where approval to expropriate the Lands is given, Council authorize the introduction of the necessary bylaw to give effect to these recommendations.

2. Purpose

This report seeks Council approval for an application to expropriate property interests required for the construction of the vivaNext bus rapid transit corridor on Yonge Street, in the Town of Newmarket, as shown on Attachment 2.

Expropriation of Land
Viva Bus Rapid Transit Corridor
Yonge Street from Sawmill Valley Drive/Savage Road to Davis Drive
Town of Newmarket

This report further seeks Council approval to expropriate any of the Lands for which no Hearing of Necessity is requested, and which have not otherwise been acquired by the Region through negotiations.

3. Background and Previous Council Direction

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

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. The subject properties are located on Yonge Street between Sawmill Valley Drive/Savage Road and Davis Drive, in the Town of Newmarket.

Council approved the expropriation of multiple properties on Yonge Street in the Town of Newmarket in [October 2013](#) and [January 2014](#). The approval secured fee simple lands, permanent easements and temporary easements for a three year term. In [June 2016](#), Council approved the expropriation of temporary easement extensions on 23 properties along Yonge Street. The remainder were negotiated with owners.

Temporary easements are required to facilitate ongoing construction

In addition to fee simple lands and permanent easements, the Region acquired and expropriated temporary easements on Yonge Street that commenced in December 2013 and will expire between December 9, 2018 and January 1, 2019. Construction is underway, however, additional time is required to complete the project. The existing temporary easement areas will be required beyond the expiry date of the easements. Upon expiry of the existing easements, new easements will be required on the same lands, with an expiry date of December 31, 2019.

4. Analysis and Implications

Initiating the expropriation process will secure access to the Temporary Easement Lands

In an effort to secure possession and complete the additional property acquisitions for this project, it is recommended the expropriation process proceed concurrently with ongoing negotiations.

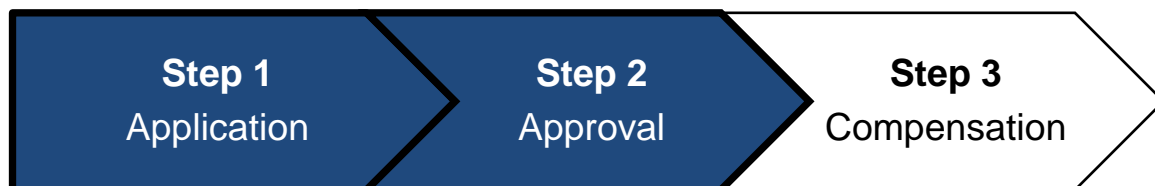
The preferred approach to obtaining land is to negotiate a transaction with the property owner. However, in many cases various events affect the timing of negotiations, such as owners who prefer to finalize negotiations at the completion of the project. In this regard, expropriation is necessary to ensure timely possession of the lands for the project.

Staff will continue to negotiate agreements of purchase and sale for the required interests concurrently with the expropriation process, until an expropriation plan has been registered or a negotiated agreement is completed.

Approval by Council is required at various stages of the expropriation process

Approval by Council is required at three stages in the expropriation process. These include the request to Council to authorize an application for approval to expropriate the Lands, the expropriation of the Lands, and the offer of compensation made to the former owner of the Lands for the losses suffered as a consequence of the expropriation.

In an effort to ensure possession of the Lands meets the construction schedule, the first and second steps in the Council approval process have been combined for this report, as indicated in the graphic below. The third step will be the subject of a future report to Council if the expropriations proceed. Possession of the Lands cannot be obtained until the third step has been completed and the owners are served offers of compensation.



Expropriation of Land
Viva Bus Rapid Transit Corridor
Yonge Street from Sawmill Valley Drive/Savage Road to Davis Drive
Town of Newmarket

Owners have the right to request a Hearing of Necessity upon receipt of a Notice of Application for Approval to Expropriate Land

The first step in the expropriation process is to serve owners with notice of intent to expropriate, following Council approval. Upon receipt of the Notice of Application for Approval to Expropriate Land, each owner has 30 days to request an inquiry (Hearing of Necessity) as to whether the taking of the lands by the Region is fair, sound and reasonably necessary.

If an owner requests a Hearing of Necessity, then subsequent to the Hearing, an Inquiry Officer will provide a report with an opinion as to whether the taking is fair, sound and reasonably necessary, including an explanation of the Inquiry Officer's findings.

Registration of expropriation plans will secure ownership of the Lands by the Region

For properties where no Hearings of Necessity are requested, a certificate of approval and plan of expropriation will be registered at the Land Registry Office. This is the second step in the expropriation process, which is anticipated in the third quarter of 2018.

Registration of the expropriation plans is a key step in the expropriation process. It is at this point that the Region acquires ownership of the Lands. However, further steps are required to obtain possession, or the right to access the Lands.

Following the registration of the expropriation plans, the notice of expropriation, election and possession will be served on the owners. Under the *Act*, possession of the Lands is to take place no sooner than three months after registration of the expropriation plans. In addition, offers of compensation must be served on the owners to obtain possession. This is the third step in the expropriation process, which requires Council approval.

Environmental due diligence was undertaken when the lands were originally acquired

Environmental Site Assessments were completed by an independent environmental consulting firm on the original expropriations as part of the Region's due diligence process. Further investigation is not required for the temporary easement extensions since the Region is already in possession of the lands, construction is underway on the corridor and the size of the property requirement remains the same.

Expropriation of Land
Viva Bus Rapid Transit Corridor
Yonge Street from Sawmill Valley Drive/Savage Road to Davis Drive
Town of Newmarket

5. Financial Considerations

The funding for the property acquisition is included in the 2017 YRRTC Capital Budget. The project is funded by the Province, via the Metrolinx Master Agreement.

6. Local Municipal Impact

This construction project of dedicated bus lanes will improve public transit and streetscape for the residents of York Region.

7. Conclusion

The Region has acquired possession of multiple property interests through previous expropriations and negotiated agreements to facilitate the vivaNext project along Yonge Street in Newmarket. Temporary easement extensions were identified by the project team, which are the subject of this report. Possession is required by December 2018 to maintain construction timing.

It is recommended that Council approve the initiation of the expropriation process for the additional property requirements detailed in this report.

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.

September 28, 2017

Attachments (2)

7898299

Accessible formats or communication supports are available upon request

**Property Schedule
Expropriation of Land
Viva Bus Rapid Transit Corridor
Yonge Street from Sawmill Valley Drive/Savage Road to Davis Drive
Town of Newmarket**

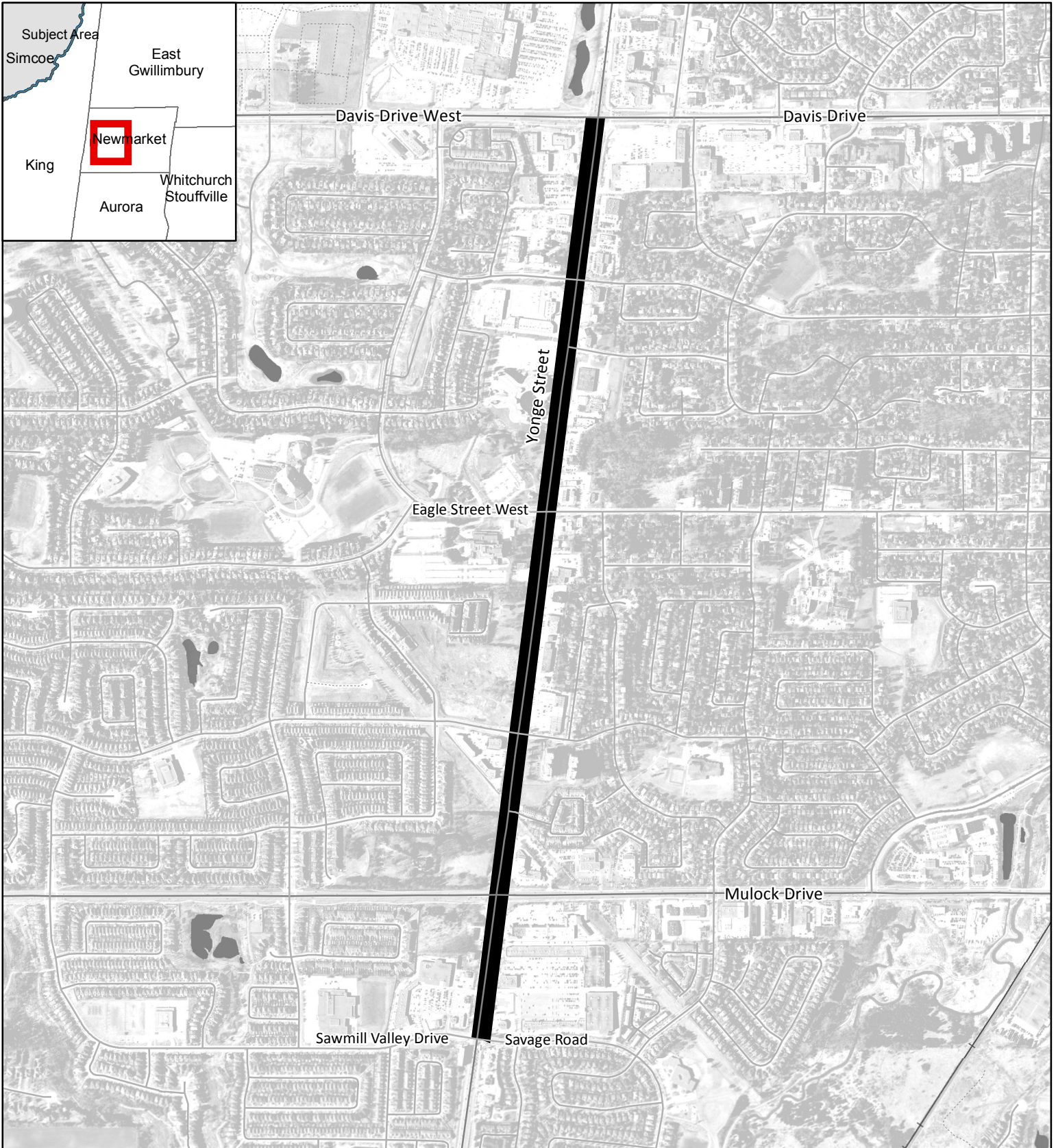
No.	Owner	Municipal Address	Legal Description	Interest Required
1.	Skamari Investments Inc.	16635 Yonge Street Newmarket	Part 1, Plan YR2528315	Temporary Easement
2.	Tavco Realty Holdings Inc.	16655 Yonge Street Newmarket	Part 1, Plan YR2528323	Temporary Easement
3.	275057 Ontario Limited	16715 Yonge Street Newmarket	Part 1, Plan YR2528329	Temporary Easement
4.	The Canada Trust Company (Trustee of the Joyce Mulock Trust) Deborah Jane Barbour (Trustee of the Joyce Mulock Trust)	16780 Yonge Street Newmarket	Part 1, Plan YR2528795	Temporary Easement
5.	Newmarket Property Corporation	16775 Yonge Street Newmarket	Part 3, Plan YR2071907	Temporary Easement
6.	Criterion Development Corporation	Vacant Lands w/s Yonge Street Newmarket	Part 2, Plan YR2071911	Temporary Easement
7.	York Region Condominium Corporation No. 877	Brandy Lane Way Newmarket	Parts 1, 2, 3, Plan YR2528352	Temporary Easement
8.	Newmarket-Tay Power Distribution Ltd.	16845 Yonge Street Newmarket	Part 2, Plan YR2071927	Temporary Easement
9.	York North Condominium Corporation No. 5	20 William Roe Boulevard Newmarket	Parts 1, 2, Plan YR2528375	Temporary Easement
10.	Invivo Investments Limited	16925 Yonge Street Newmarket	Parts 1, 2, 3, Plan YR2528396	Temporary Easement

No.	Owner	Municipal Address	Legal Description	Interest Required
11.	1209104 Ontario Limited	Vacant Lands w/s Yonge Street Newmarket	Part 1, Plan YR2528438	Temporary Easement
12.	LT Realties Inc.	16995 Yonge Street Newmarket	Parts 1, 2, 3, 4, 5, 6, 7, 8 Plan YR2528451	Temporary Easement
13.	Trustees of the Canadian Yearly Meeting of the Religious Society of Friends (Quakers)	17000 Yonge Street Newmarket	Part 1, Plan YR2071964	Temporary Easement
14.	The Trustees of the Yonge Street Monthly Meeting of the Religious Society of Friends	17030 Yonge Street Newmarket	Part 1, Plan YR2071969	Temporary Easement
15.	Thana Group Limited	17035 Yonge Street Newmarket	Parts 5, 6, 7, Plan YR2074287	Temporary Easement
16.	Kindwin Markham Limited	17046 Yonge Street Newmarket	Part 1, Plan YR2071970	Temporary Easement
17.	Marlies Schellin	17070 Yonge Street Newmarket	Part 3, Plan YR2071972	Temporary Easement
18.	1965114 Ontario Inc.	17065 Yonge Street Newmarket	Part 1, Plan YR2528462	Temporary Easement
19.	993113 Ontario Inc.	17089 Yonge Street Newmarket	Part 1, Plan YR2528470	Temporary Easement
20.	2089929 Ontario Limited	17095 Yonge Street Newmarket	Part 1, Plan YR2528480	Temporary Easement
21.	Suncor Energy Inc.	17111 Yonge Street Newmarket	Parts 1, 2, Plan YR2528492	Temporary Easement
22.	Mac's Convenience Stores Inc.	17145 Yonge Street Newmarket	Part 1, Plan YR2528506	Temporary Easement
23.	Seven Star Investments Inc.	17175 Yonge Street Newmarket	Part 1, Plan YR2528511	Temporary Easement
24.	Calgas Investments Limited	17215 Yonge Street Newmarket	Part 1, Plan YR2528712	Temporary Easement

No.	Owner	Municipal Address	Legal Description	Interest Required
25.	2563389 Ontario Inc.	17295 Yonge Street Newmarket	Part 1, Plan YR2528727	Temporary Easement
26.	Yongemill Group Inc.	17310 Yonge Street Newmarket	Parts 1, 2, Plan YR2528745	Temporary Easement
27.	Moshoian Productions Limited	17315 Yonge Street Newmarket	Part 1, Plan YR2528764	Temporary Easement
28.	1045838 Ontario Inc. 1255552 Ontario Inc.	17335 Yonge Street Newmarket	Part 2, Plan YR2071523	Temporary Easement
29.	Newmarket Property Corporation	17360 Yonge Street Newmarket	Parts 1, 2, Plan YR2071494	Temporary Easement
30.	2143811 Ontario Limited	17365 Yonge Street Newmarket	Parts 3, 4, Plan YR2071524	Temporary Easement
31.	2143811 Ontario Limited	17395 Yonge Street Newmarket	Parts 1, 2, Plan YR2071524	Temporary Easement
32.	Crossland Centre (1990) Inc.	17380-17410 Yonge Street Newmarket	Parts 1, 2, Plan YR2528775	Temporary Easement
33.	Collison Estates Ltd.	17415 Yonge Street Newmarket	Part 1, Plan YR2071527	Temporary Easement
34.	2433265 Ontario Inc.	17440 Yonge Street Newmarket	Parts 4, 5, 6, 7, Plan YR2071554	Temporary Easement
35.	Loblaw Properties Limited	20 Davis Drive Newmarket	Parts 1, 2, 3, 4, 5, Plan YR2528787	Temporary Easement

The temporary easements required are described as a temporary limited interest commencing on December 10, 2018 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-stripping of aisles, lanes, and parking

No.	Owner	Municipal Address	Legal Description	Interest Required
<p>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 Davis Drive, including associated local roads, and to provide designated lanes for the vivaNext transit system and works ancillary thereto.</p>				



York Region

Produced by:
The Regional Municipality of York
Property Services, Corporate Services
September 2017

Data: © Queen's Printer for Ontario 2003-2017

Imagery:
See York.ca for disclaimer information.
© First Base Solutions Inc. 2016

Location Plan
Expropriation of Land
Viva Bus Rapid Transit Corridor
Yonge Street from Sawmill Valley Drive/
Savage Road to Davis Drive
Town of Newmarket
October 12, 2017

Legend

- Subject Corridor
- Road
- Railway