

Clause 15 in Report No. 11 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on June 29, 2017.

15

Expropriation of Land
Rutherford Road from Jane Street to Westburne Drive
City of Vaughan

Committee of the Whole recommends adoption of the following recommendation contained in the report dated June 8, 2017 from the Commissioner of Corporate Services:

1. Council authorize an application for approval to expropriate the lands set out in Attachment 1, for the widening and reconstruction of Rutherford Road, between Jane Street and Westburne Drive, in the City of Vaughan.
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 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 June 8, 2017 from the Commissioner of Corporate Services now follows:

1. Recommendations

It is recommended that:

1. Council authorize an application for approval to expropriate the lands set out in Attachment 1, for the widening and reconstruction of Rutherford Road, between Jane Street and Westburne Drive, in the City of Vaughan.
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 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 widening and reconstruction of Rutherford Road from Jane Street to Westburne Drive, in the City of Vaughan, as shown on the map in Attachment 2.

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

3. Background

Rutherford Road is proposed to be widened from Jane Street to Bathurst Street

The need for improvements to Rutherford Road from Jane Street to Bathurst Street in the City of Vaughan has been identified in the Region's recently updated Transportation Master Plan. These improvements have also been included in the approved 2016 10-Year Roads and Transit Capital Construction Program.

The Environmental Assessment (EA) study for improvements to Rutherford Road (named Carrville Road east of Bathurst Street) from Jane Street to Yonge Street was completed in mid-2016.

The design on this portion of the project includes a proposed widening of Rutherford road to six lanes to accommodate HOV/transit priority lanes, sidewalks/cycle tracks on both sides, transit bus pads/shelters, and a landscaped median where sufficient space is available. Also included are a grade separation at the Barrie GO Rail/Rutherford Road intersection, a widening of the bridge over the Canadian National Railway tracks at the MacMillan Yard, and intersection improvements at Keele Street.

The first phase of construction between Jane Street and Westburne Drive is scheduled to commence in 2019. The lands that are the subject of this report are located in this initial phase of the project.

A multi-use path is proposed to be constructed over a section of a privately owned underground parking garage

A stratified permanent easement will be required from Property 1, as detailed in Attachment 1. The stratified easement is required to accommodate an existing privately owned underground parking garage. The portion of land required by the Region will be a minimum of 0.95 metres above the top of the garage, to ensure there is a buffer between the parking structure and the Region's requirement. Upon further detail design, staff will, to the extent possible, take the necessary steps to minimize the Region's exposure to inherent risk and liability associated with having infrastructure over an existing privately owned underground parking garage, including the potential loss of use of the multi-use path. Timely possession of lands is required for roadway construction to start spring of 2019.

Possession of the lands is required by the fall of 2018 for utility relocations to begin, and for roadway construction to start in the spring of 2019. Securing the property through the expropriation process will provide certainty that construction can proceed as scheduled.

4. Analysis and Implications

Staff will be negotiating with property owners throughout the expropriation process

Land requirements for the construction of this portion of the project will affect 25 property owners. Two properties, one owned by the City of Vaughan and the other owned by Canadian National Railway, are not subject to expropriation. The land requirement from these owners will be acquired through negotiated agreements and have not been included in this report. The remaining 23 properties are the subject of this report.

Staff will commence discussions with property owners to acquire the property needed for construction upon receipt of survey plans. In accordance with the Region's land acquisition policy, an independent property appraiser is being engaged to provide individual market value appraisals to be used during negotiations.

Initiating the expropriation process now will allow access to the lands and timely delivery of infrastructure

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

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negotiations, such as owners who prefer to finalize negotiations at the completion of the project. In this regard, expropriation is deemed a necessary approach to ensure possession of lands for the needs of a project.

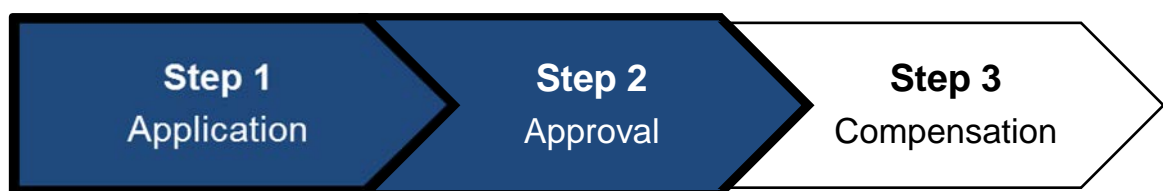
In an effort to secure possession and complete the property acquisition for this corridor, it is recommended that the expropriation process proceed concurrently with ongoing negotiations.

Staff will continue to negotiate agreements of purchase and sale for the required interests along with the expropriation process, until an expropriation plan has been registered.

Council Approval is required at three 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 itself, 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 to meet the coordinated 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, in the event the expropriation proceeds. Possession of the lands cannot be obtained until this third step has been completed and the owner is served an offer of compensation.



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

The first step in the expropriation process is to serve the registered owners with a notice of intention to expropriate, following Council approval. Upon receipt of the Notice of Application for Approval to Expropriate, each owner has the right within 30 days of receipt to request an inquiry (Hearing of Necessity) to determine whether the taking of the lands by the Region is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority.

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If an owner requests a Hearing of Necessity, then subsequent to the Hearing, an inquiry officer will provide a report providing an opinion as to whether the taking is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority, including an explanation for the Inquiry Officer's findings.

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

If no Hearing of Necessity is requested, an expropriation plan will be registered at the Land Registry Office within three months of Council granting approval of a by-law to proceed with the expropriation. This is the second step in the expropriation process, and registration of the plans is anticipated to be in the fall of 2017.

Registration of the expropriation plan 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 plan, the notice of expropriation and possession will be served on the owner. 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 owner to obtain possession.

Environmental due diligence will be completed prior to the Region taking ownership of the lands

A Contamination Overview Study was completed as part of the Class Environmental Assessment Study and identified Areas of potential environmental concern. A Phase One Environmental Site Assessment (ESA) will be performed to assess the potential environmental condition of the lands. Based on the results of the Phase One ESA, a Phase Two ESA may be completed to confirm the presence or absence of environmental impacts identified in the Phase One ESA. Prior to registration of the expropriation plans, the results of the environmental due diligence conducted for the lands will be reviewed by staff, including consultation with Legal Services. In the event environmental impacts are identified, staff will take the necessary steps to minimize the Region's exposure to environmental risk and liability and may report to Council with recommendations.

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5. Financial Considerations

The funding required to complete the property acquisition that is the subject of this report is included in the 2017 Capital Budget for Transportation Services, Capital Planning and Delivery.

Under section 25 of the *Act*, the Region is obligated to serve offers of compensation on owners within three months of the registration of the expropriation plan. The appraisals required to support these offers will be prepared and the proposed offers will be the subject of a further report to Council.

6. Local Municipal Impact

Once construction is complete, the widening and reconstruction of Rutherford Road will provide upgraded capacity to improve traffic operations for the travelling public and will support the accommodation of the forecasted growth in the York Region Official Plan.

7. Conclusion

The widening and reconstruction of Rutherford Road from Jane Street to Westburne Drive, in the City of Vaughan requires the acquisition of interests in land from the subject property owners.

Negotiations with the property owners to acquire the lands are proceeding concurrently with the expropriation process, in an effort to obtain the lands by early fall 2018. It is necessary to initiate the expropriation process now to ensure the timely acquisition of the required lands to meet construction timelines.

Staff will continue to negotiate the acquisition of the required properties until expropriation plans are registered. The expropriation proceedings will be abandoned in the event negotiations are successful.

The expropriation process requires various approvals by Council. Upon approval of the recommendations of this report, staff will notify the affected property owners of the Region's intent to expropriate, and will proceed with the expropriation of lands if no Hearing of Necessity is requested. The Region will not take possession of the lands until Council approves the offers of compensation to owners, which will be the subject of a future report.

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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. June 8, 2017

Attachments (2)

eDOCS #7678685

Accessible formats or communication supports are available upon request

**Property Schedule
Expropriation of Land
Rutherford Road from Jane Street to Westburne Drive
City of Vaughan**

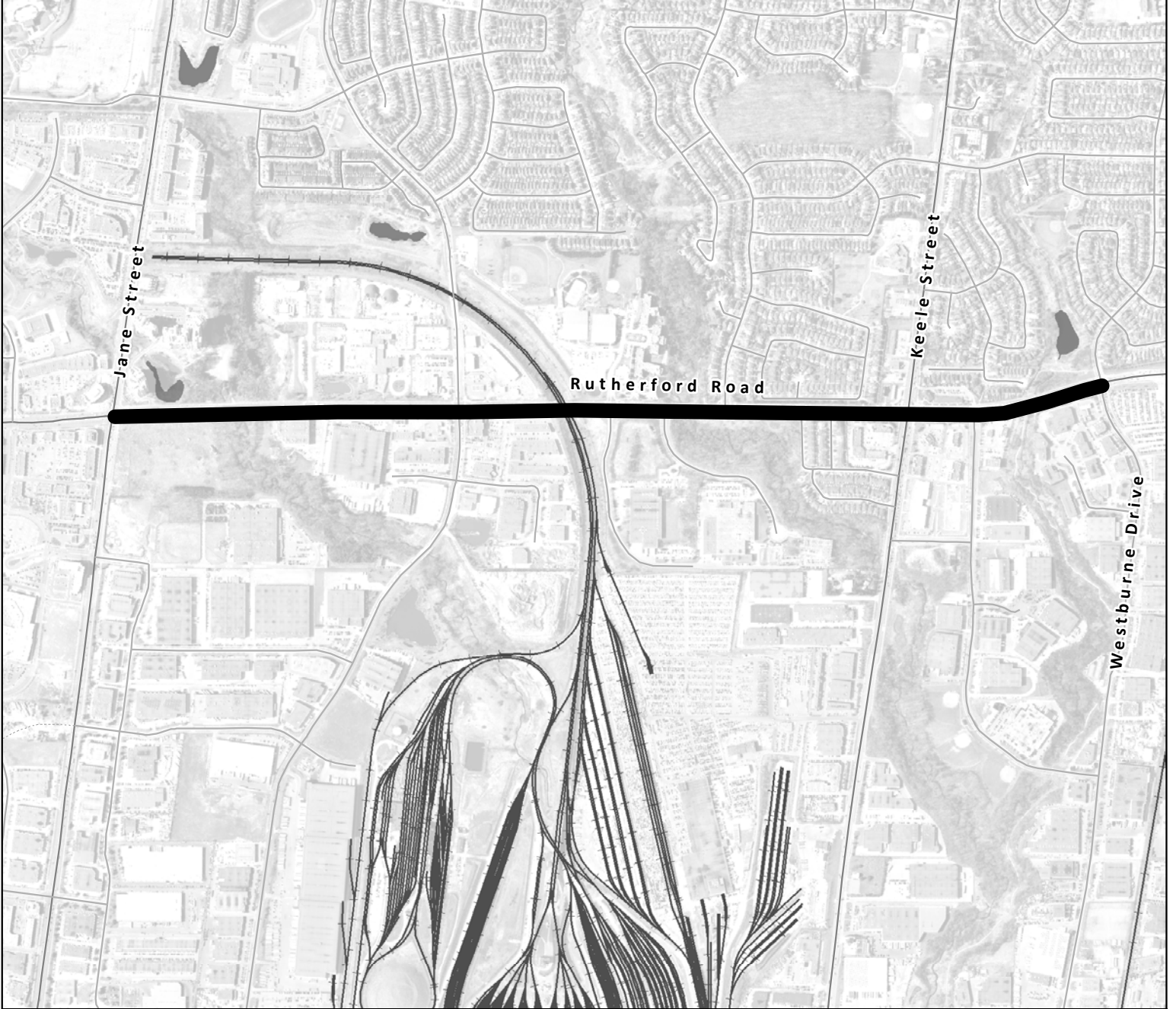
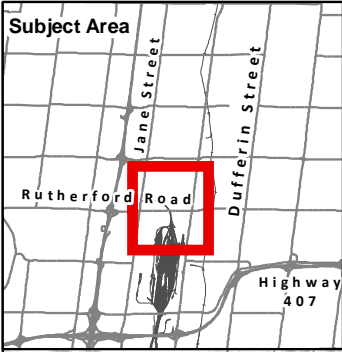
No.	Owner	Municipal Address	Legal Description	Interest Required
1.	York Region Condominium Corporation No. 1113	9225, 9235 & 9255 Rutherford Road	Parts 1, 2, 16 & 17, Plan 65R37121 limited to an elevation of 216.19 metres and above	Permanent Easement
			Parts 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 & 15, Plan 65R37121	Fee Simple
2.	Rutherford Land Development Corp.	N/A	Parts 1, 2 & 3, Draft Plan of Survey L12-012159	Fee Simple
			Parts 31, 32 & 33, Draft Plan of Survey L12-012159	Temporary Easement
3.	Floria Creek Estates	2839 Rutherford Road	Part 8, Draft Plan of Survey L12-012159	Temporary Easement
4.	Hoopp Realty Inc.	2771 Rutherford Road	Parts 9 & 10, Draft Plan of Survey L12-012159	Temporary Easement
5.	Maruba Investment Inc.	2651 & 2701 Rutherford Road	Parts 11 & 12, Draft Plan of Survey L12-012159	Temporary Easement
		2601 Rutherford Road	Parts 7, 8, 9 & 10, Plan 65R37087	Fee Simple
6.	Eastwood Holdings Corporation	2850 Rutherford Road	Parts 24, 25, 26 & 27, Draft Plan of Survey L12-012159	Temporary Easement
			Part 28, Draft Plan of Survey L12-012159	Fee Simple

No.	Owner	Municipal Address	Legal Description	Interest Required
7.	1688643 Ontario Limited & 2382279 Ontario Limited	2650 Rutherford Road	Parts 1, 2, 3, 4 & 5, Plan 65R37087	Fee Simple
8.	York Region Condominium Corporation	2610 Rutherford Road	Part 6, Plan 65R37087	Temporary Easement
9.	Bellshire Woods Estates Inc.	2501 Rutherford Road	Parts 11, 12, 13 & 14, Plan 65R37087	Fee Simple
10.	1354028 Ontario Inc.	N/A	Part 18, Plan 65R37087	Temporary Easement
			Part 19, Plan 65R37087	Fee Simple
11.	Lee, Ben Ted & Ana Meily Quach	156 Castlehill Road	Part 1, Plan 65R37129	Temporary Easement
12.	Di Cosmo, Louise Di Cosmo, Fausto Ciro	248 Castlehill Road	Part 6, Plan 65R37129	Temporary Easement
13.	Wood, Byron John Wood, Wendy Yvonne	1 Greenock Drive	Part 7, Plan 65R37129	Temporary Easement
14.	2500 Rutherford Corporation	2500 Rutherford Road	Part 35, Plan 65R37129	Temporary Easement
15.	Nunes, Alberto Figueiredo & Figueiredo, Maria Rosario	116 Sherwood Park Drive	Part 58, Plan 65R37129	Temporary Easement

No.	Owner	Municipal Address	Legal Description	Interest Required
16.	Azizkhodzhaeva, Farangis	2 Wedgewood Place	Part 59, Plan 65R37129	Temporary Easement
17.	Di Martino-Palladino, Antonella Raffaella Palladino, Nick	1 Wedgewood Place	Part 60, Plan 65R37129	Temporary Easement
18.	Arcovit Holdings Inc.	72 Basaltic Road	Parts 4 & 5 Plan 65R37073	Temporary Easement
19.	Alonkfar Holdings	90 Moyal Court	Parts 6 & 7, Plan 65R37073	Temporary Easement
20.	Melrose Investments Inc.	9131 Keele Street	Part 9, Plan 65R37073	Temporary Easement
21.	Keefer Rutherford Holdings Limited	9141 Keele Street	Parts 10 & 11, Plan 65R37073	Temporary Easement
22.	1878278 Ontario Limited	2200 Rutherford Road	Part 12, Plan 65R37073	Temporary Easement
23.	Doukas, Athina	2241 Old Rutherford Road	Part 13, Plan 65R37073	Temporary Easement

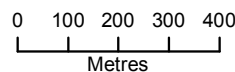
The temporary easements required are described as a temporary limited interest commencing on registration of the plan of expropriation and will run for a term of 72 months, in, under, over, along and upon and for municipal purposes including, but not limited to, entering on the lands with all vehicles, 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 right-of-way, (3) staging and storage of materials

No.	Owner	Municipal Address	Legal Description	Interest Required
<p>and equipment, (4) geo-tech testing, borehole testing, and other investigative works, (5) removal, relocation, and/or installation of signage, (6) landscaping, paving, grading and reshaping the lands to the limit of the reconstruction, (7) the installation and removal of temporary infrastructure related to the construction, and (8) works ancillary to any of the foregoing.</p> <p>The permanent easement will commence on the date of registration of the easement, and is described as a limited interest in perpetuity, subsurface from an elevation of 216.19 metres and above, including surface rights, along and upon and for the general public for the use and enjoyment of a multiuse pathway and for municipal purposes including but not limited to, entering on the lands with all vehicles, machinery, workmen and other material for construction purposes, as well as public access, which may include (1) relocation of existing services and utilities, (2) work that supports the construction of municipal infrastructure within the Region's right-of-way, (3) staging and storage of materials and equipment, (4) geo-tech testing, borehole testing, and other investigative works, (5) removal, relocation, and/or installation of signage, (6) landscaping, paving, grading and reshaping the lands to the limit of the reconstruction, (7) the installation and removal of temporary infrastructure related to the construction, (8) the installation, operation and maintenance of a permanent multiuse path, and (9) works ancillary to any of the foregoing. The registered owner to the servient lands is to keep the lands free and clear of any buildings, fencing, landscaping, construction, structures or obstructions; is not to deposit on or remove any fill from the lands and not to do or suffer to be done any other thing which might interfere with the rights and easements hereby acquired.</p>				



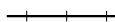


Location Plan

Expropriation of Land
 Rutherford Road from Jane Street to
 Westburne Drive
 City of Vaughan
 June 22, 2017



Legend

-  Project Limits
-  Road
-  Railway



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

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Imagery:
 See York.ca for disclaimer information.