



Clause No. 16 in Report No. 2 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on January 22, 2015.

Compensation for Expropriation
Viva Bus Rapid Transit Corridor
Davis Drive – Yonge Street to Alexander Road
Town of Newmarket

Committee of the Whole recommends adoption of the following recommendation contained in the report dated December 19, 2014 from the Commissioner of Corporate Services:

1. Recommendation

It is recommended that:

1. Council authorize the Commissioner of Corporate Services to make offers of compensation to the owners of 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 owners whose lands have been expropriated for the Davis Drive project from Yonge Street to Alexander Road in the Town of Newmarket. The locations of the four properties that are the subject of this report are shown on the maps in Attachments 2, 3 and 4.

3. Background

The Region is constructing dedicated bus rapid transit lanes for vivaNext along Davis Drive in Newmarket

To facilitate public transit along Davis Drive in Newmarket, the Region, via York Region Rapid Transit Corporation (YRRTC), is undertaking improvements to the road infrastructure and the construction of dedicated centre lanes for Viva buses, along with enhanced street features and boulevards. The project received approval of the Environmental Assessment Report from the Ministry of the Environment in 2005.

The new viva rapidway along Davis Drive is approximately 70% completed and is expected to be completed in December 2015

Construction of the new viva rapidway along Davis Drive began in May 2012, and runs for 2.6 kilometres from Yonge Street to just past the Southlake Regional Health Centre.

The Davis Drive rapidway is approximately 70% completed and the rapidway is expected to open in December 2015.

A subsequent construction phase will have all Viva buses running in the curbside lanes from the Southlake Regional Health Centre to Highway 404, a distance of 2.3 kilometres.

Possession of lands was obtained for 133 property requirements via expropriation in 2009 on Davis Drive, from Yonge Street to Alexander Road in Newmarket

On January 22, 2009, Council approved the expropriation of the initial interests required for the construction of the Davis Drive corridor, which involved various property takings from 133 property owners. Possession of the lands was obtained in late 2009, and construction has proceeded with anticipated completion of the bus rapid transit centre lanes in December 2015. To date, full and final settlements have been reached with 57 property owners, and partial settlements have been reached with 42 owners. The partial settlements are subject to future potential claims from former owners, for matters not agreed to when the settlement was negotiated. The remaining 34 properties, for which no full or partial settlements have been obtained, are also subject to future claims from former owners.

Council authorized the expropriation of five additional property interests for the Davis Drive project in September 2014

On September 11, 2014, Council authorized the expropriation of five additional properties required for the construction of the vivaNext bus rapid transit project for the Davis Drive corridor from Yonge Street to Alexander Road. These are new requirements, in relation to the 133 property expropriations that were completed in 2009, and the interests included permanent easements for traffic signal loops, and one temporary easement for grade matching with other completed works. The need for the easements was identified as the design of the corridor progressed and specific needs to the intersections were addressed.

Expropriation is necessary to ensure the construction schedule is not compromised

Staff negotiated the purchase of one of the five properties presented to Council on September 11, 2014, removing the need to continue with the expropriation. With respect to the remaining four properties, it was necessary to continue with the expropriation process in order to secure ownership of the lands and meet the construction schedule for the traffic signals and grading work, which will take place in the second quarter of 2015.

The Region acquired title to the land when the expropriation plan was registered on December 2, 2014. The *Act* requires the Region to serve offers of compensation within three months of registration of the plan. These offers are based on appraisals of market value and other damages if applicable.

4. Analysis and Options

Independent appraisal reports have established the values which form the basis of the offers

Independent consultants were commissioned to provide estimates of compensation including appraisals of market value for the lands expropriated and, if applicable, estimates of damages for lost improvements (such as landscaping or parking) and injurious affection (the loss of value to the lands retained by the owner). Section 25 of the *Act* requires the Region to offer each owner a choice of two options regarding compensation. The first offer is an offer of full compensation for the market value of the lands expropriated and any damages for lost improvements and injurious affection. If 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 an offer 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 lost 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*.

Possession of expropriated lands will be obtained upon serving offers

The Region acquired title to the lands when the expropriation plan was registered at the Land Registry Office. Although ownership is now in the name of the Region, possession is yet to be obtained. In accordance with the *Act*, notices of expropriation and possession were served upon the owners, with possession anticipated for April 1, 2015. In accordance with the *Act*, it is necessary to make offers of compensation to owners in order to obtain possession of the expropriated lands.

In the event an owner does not agree to a full and final settlement upon receipt of the offer made under Section 25 of the *Act*, staff will endeavour to negotiate compensation settlements.

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

The budget to complete the property acquisitions is included in the 2015 YRRTC Capital Budget. The project is funded by the Province, via the Metrolinx Master Agreement.

Under section 25 of the *Act*, the Region is obligated to serve offers of compensation on owners within three months of registration of the expropriation plan. The compensation payable to the owners is based on independently commissioned appraisals.

6. Local Municipal Impact

The construction of dedicated bus lanes and related facilities, as well as road and intersection improvements along Davis Drive from Yonge Street to Alexander Road, is critical to the achievement of the vision for the corridor for the Region. Additionally, upon completion this project will improve public transit facilities and enrich the streetscapes in Newmarket, to support the Region's goal for higher density mixed use transit-oriented development.

7. Conclusion

Possession for the majority of lands required for construction of the bus rapid transit corridor on Davis Drive in Newmarket was obtained in 2009. As construction along the corridor progressed, it was determined that additional easements were required in order to facilitate traffic signal loops at the entrance points to five properties. It is necessary to proceed with the expropriation of property interests from four of the five properties, in order to ensure possession of the lands to accommodate construction of the traffic signal loops, which is to take place in the second quarter of 2015.

On December 2, 2104, expropriation plans were registered with respect to certain lands required for the Davis Drive project. The *Act* requires that offers of compensation for expropriated lands be served on the former owners in order to obtain possession. The value of the proposed offers are based on estimates provided by independently commissioned appraisers. 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 René Masad, Director, Property Services Branch at ext. 71684.

The Senior Management Group has reviewed this report.

Attachments (4)

Accessible formats or communication supports are available upon request

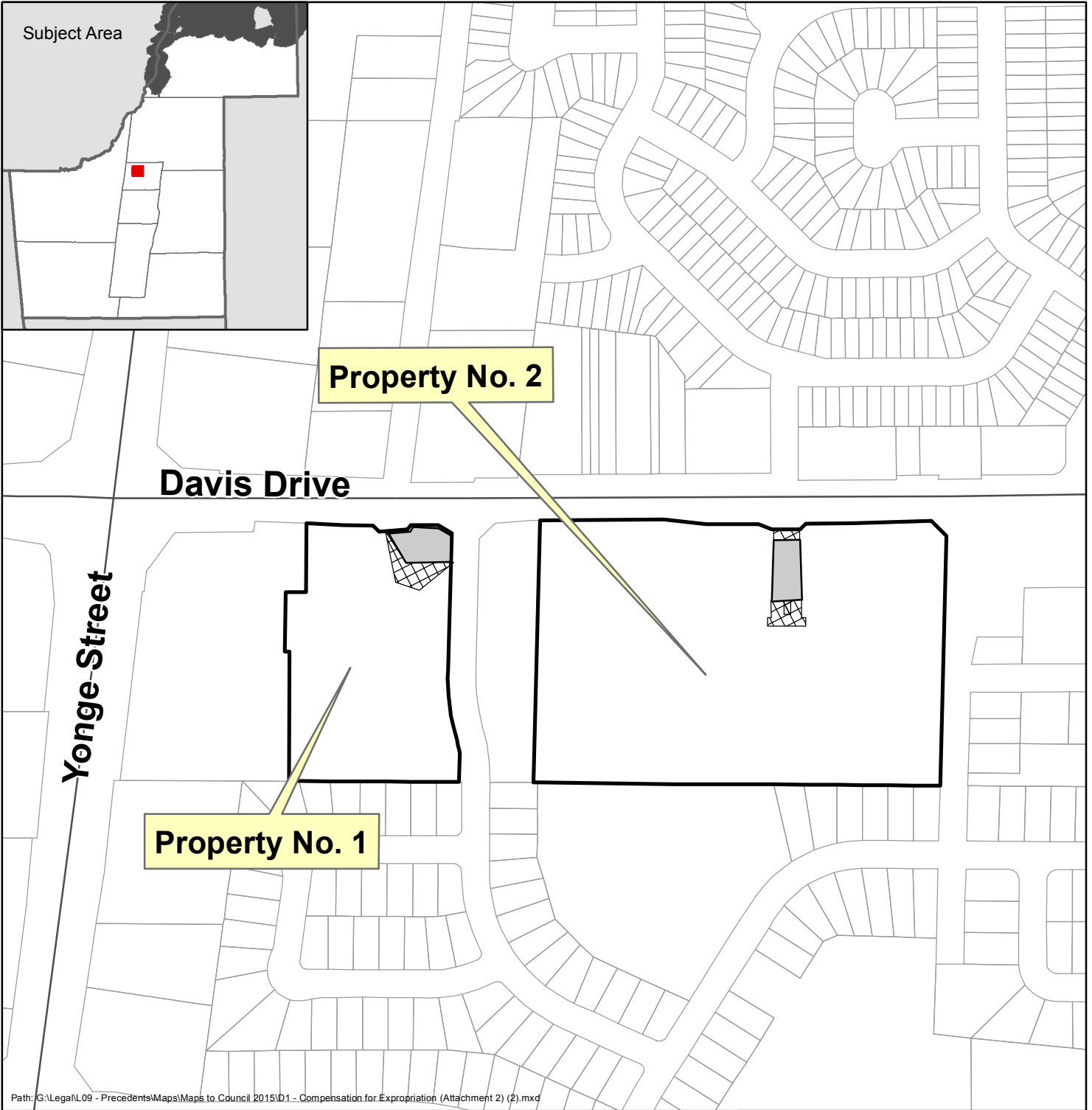
**Property Schedule
Compensation for Expropriation
Viva Bus Rapid Transit Corridor
Davis Drive – Yonge Street to Alexander Road
Town of Newmarket**

No.	Owner	Municipal Address	Legal Description	Interest Required
1.	Monashee Holdings Ltd. and Timeoso Inc.	54 Davis Drive Newmarket	Parts 1, 2, 3, 4, 5, 6, Plan 65R34757	Permanent Easement
2.	Newmarket Plaza Limited	130 Davis Drive Newmarket	Part 1, Plan 65R34741 Part 2, Plan 65R34743	Permanent Easement
			Part 1, Plan 65R34743	Temporary Easement
3.	Newmarket-Tay Power Distribution Ltd.	315 Davis Drive Newmarket	Parts 1, 2, 3, Plan 65R34745	Permanent Easement
4.	Southlake Regional Health Centre	596 Davis Drive Newmarket	Part 1, Plan 65R34740	Permanent Easement

The temporary easements required are described as a temporary limited interest commencing on registration of the plan of expropriation and expiring on October 31, 2015 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

ATTACHMENT 1

No.	Owner	Municipal Address	Legal Description	Interest Required
<p>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> <p>The permanent easements required are described as a limited interest in perpetuity 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 (i) to construct and maintain permanent municipal infrastructure which may include installation, maintenance, relocation and/or removal of traffic turning loops and associated signalization equipment and controls, retaining walls, shoring and formwork and/or drainage, erosion or sediment control measures such as watermains and storm sewers, and (ii) for construction purposes which include, but are not limited to, (1) relocation of existing services and utilities, (2) staging and storage of materials and equipment, (3) geotech testing, borehole testing, and other investigative works, (4) removal, relocation and/or installation of signage, (5) hard and soft landscaping, paving, grading and reshaping the lands to the limit of the reconstruction of municipal road fronting the lands herein described, (6) 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 (7) 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>				



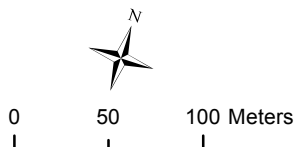
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LOCATION PLAN






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 Town of Newmarket

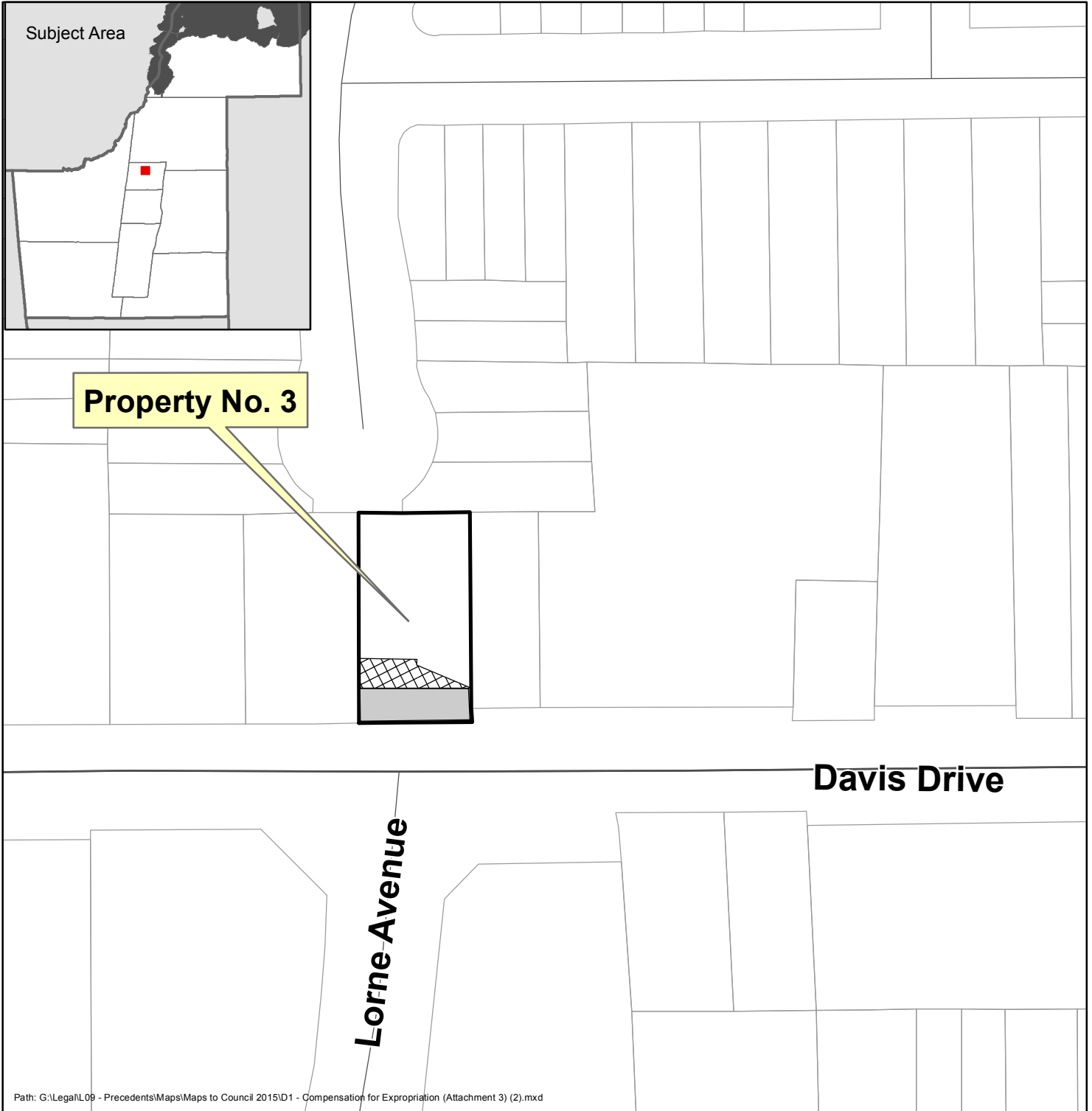


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Legend

-  Interest Required
-  Previously Acquired Interest
-  Subject Properties
-  Parcel
-  Road



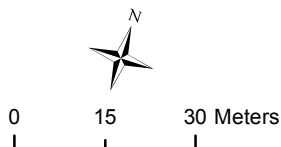
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LOCATION PLAN






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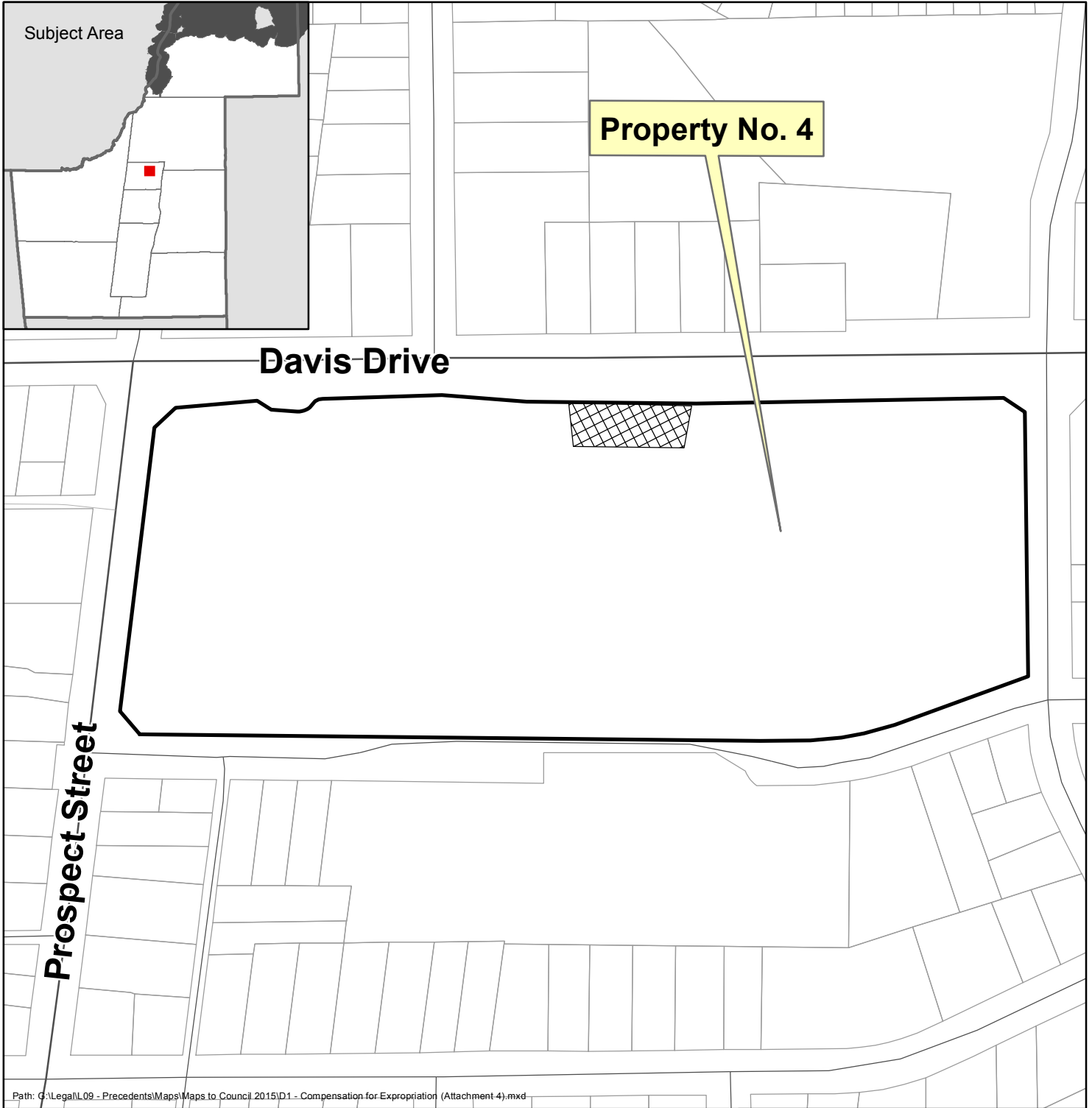


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Legend

-  Interest Required
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-  Subject Properties
-  Parcel
-  Road



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LOCATION PLAN

Compensation for Expropriation
Viva Bus Rapid Transit Corridor
Davis Drive – Yonge Street to Alexander Road
Town of Newmarket



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