

Clause No. 17 in Report No. 10 of the Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on May 15, 2014.

17
APPLICATION FOR APPROVAL TO EXPROPRIATE
WIDENING AND CONSTRUCTION OF BUS RAPID TRANSIT CORRIDOR
DAVIS DRIVE (D1) VIVANEXT PROJECT 90991
TOWN OF NEWMARKET

Committee of the Whole recommends adoption of the recommendation contained in the following report dated April 22, 2014 from the Commissioner of Corporate Services:

1. RECOMMENDATIONS

It is recommended that:

1. Council authorize an application for approval to expropriate the following lands within the Town of Newmarket:

No.	Owner	Municipal Address	Legal Description	Interest Required
1	York Region Condominium Corporation No. 695	724 Davis Drive	Part 1 on Plan YR1887625	Temporary Easement
2	Bethel Christian Reformed Church of Newmarket	333 Davis Drive	Part 1 on Plan 65R-34742	Permanent Easement
3	Newmarket Plaza Limited	130 Davis Drive	Part 1 on Plan 65R-34741 Part 2 on Plan 65R-34743	Permanent Easement

No.	Owner	Municipal Address	Legal Description	Interest Required
			Part 1 on Plan 65R-34743	Temporary Easement
4	Monashee Holdings Ltd. and Timeoso Inc.	54 Davis Drive	Parts 1, 2, 3, 4, 5, 6 on Plan 65R- 34757	Permanent Easement
5	Southlake Regional Health Centre	596 Davis Drive	Part 1 on Plan 65R-34740	Permanent Easement
6	Newmarket-Tay Power Distribution Ltd.	315 Davis Drive	Parts 1, 2, 3 on Plan 65R-34745	Permanent Easement
<p>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 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>				

No.	Owner	Municipal Address	Legal Description	Interest Required
				<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 may 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>

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 held under the *Act*.
4. Council authorize the introduction of the necessary bylaws to give effect to these recommendations.

2. PURPOSE

This report seeks Council approval for an application to expropriate property interests required for road and intersection improvements, in order to provide designated lanes for the Viva transit system along the Davis Drive corridor (*Attachment 1*).

Under the *Act*, Council, as approving authority, must approve an application prior to the initiation of any proceedings.

3. BACKGROUND

The Region is undertaking improvements to the road infrastructure and the construction of dedicated lanes for Viva buses

On January 22, 2009, Council authorized the approval to expropriate certain lands, as part of the vivaNext project, to facilitate bus rapid transit construction along Davis Drive, in the Town of Newmarket. The Region, via York Region Rapid Transit Corporation (YRRTC), is undertaking improvements to the road infrastructure and the construction of dedicated lanes for Viva buses.

Lands were acquired, via expropriation, for fee takings as well as permanent and temporary easements. It was determined that some temporary easement interests expropriated in 2009 would be required beyond their 2012 expiry dates, due to construction delays. Therefore, on June 28, 2012, Council authorized the approval to expropriate new temporary easements expiring on May 31, 2014.

The project team identified the need for a second extension of temporary easements to allow construction beyond May 31, 2014, and on June 27, 2013, Council authorized the approval to expropriate new temporary easements, expiring October 31, 2015.

During the ongoing design build construction process eight additional partial taking requirements, at six properties, have been identified as needed at this time.

4. ANALYSIS AND OPTIONS

Negotiations are proceeding to acquire the necessary properties with anticipated possession dates commencing in June 2014

The project requires the acquisition of six permanent and two temporary easements located at six properties. These additional requirements were identified during the ongoing design build construction process for road widening and supporting

infrastructure purposes. Possession of all lands is required by no later than May 2015, with construction scheduled to commence upon possession.

Property negotiations to acquire the necessary lands are proceeding. Staff will continue to negotiate agreements of purchase and sale for the required interests until an expropriation plan has been registered.

Initiating expropriation proceedings will ensure the construction schedule will not be compromised if land acquisitions are delayed

It is anticipated that negotiations will be successfully concluded on most of the required properties. These agreements will be presented to the approving authorities in due course. However, given the legislated time requirements to obtain possession via expropriation, it is recommended the expropriation process proceed, concurrently, with ongoing negotiations to ensure that YRRTC can effectively obtain access to the lands to accommodate construction scheduling. Timely possession of the required lands will reduce the risk of escalating costs associated with development along these corridors.

The first step in the process requires Council, as approving authority, to authorize an application for approval to expropriate. Subsequently, notice may be served on owners of the subject lands. Receipt of this notice will trigger an owner's right to request a Hearing of Necessity. There is also a statutory obligation to publish the notice.

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 funds required to complete the property acquisitions have been included in the approved 2014 YRRTC Capital Budget. The project is funded by the Province, via the Metrolinx Master Agreement.

6. LOCAL MUNICIPAL IMPACT

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

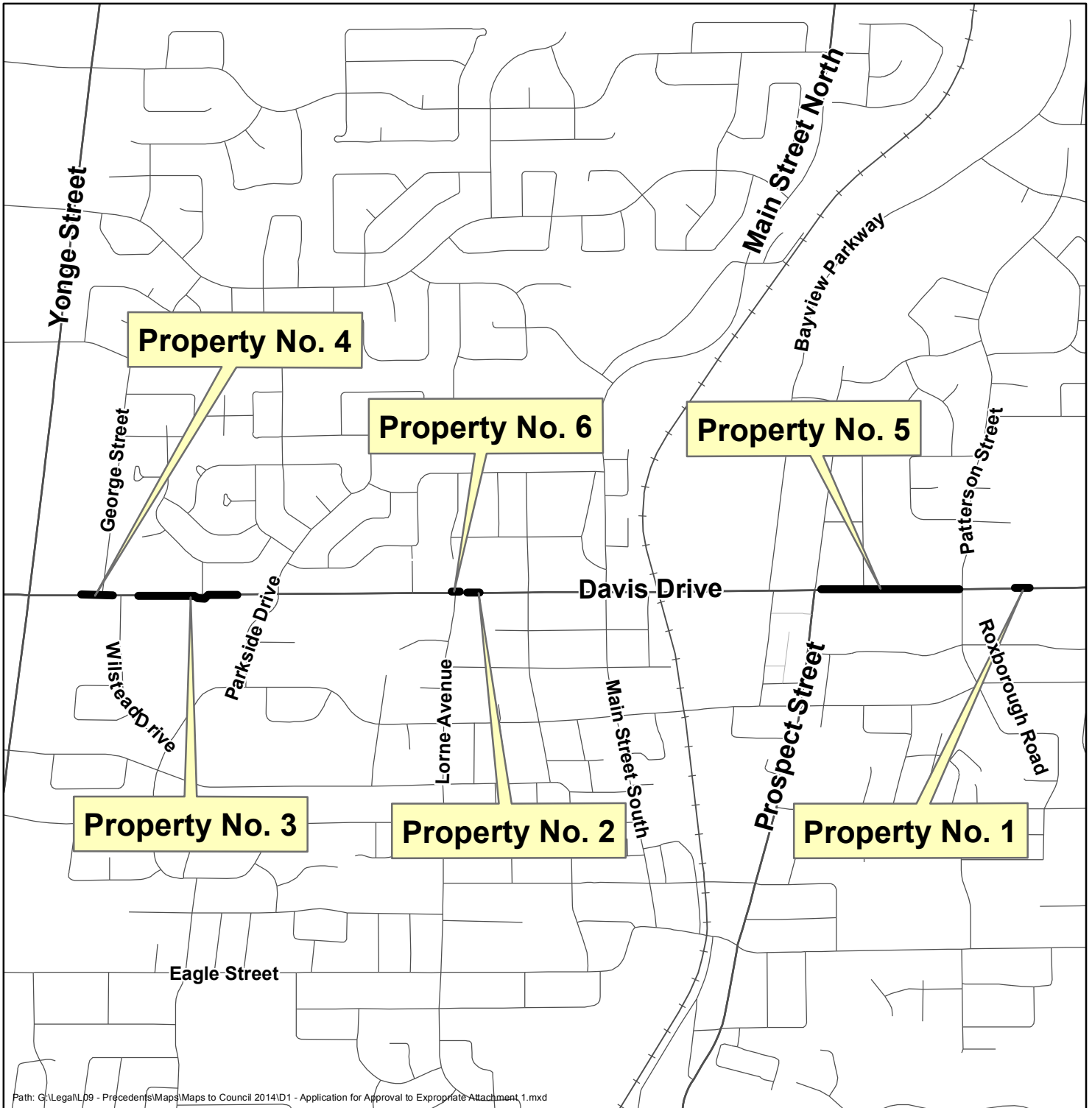
7. CONCLUSION

This report seeks Council approval to expropriate additional partial land takings from six owners along the Davis Drive corridor. These requirements were identified during ongoing construction and are necessary to facilitate the construction of road, intersection and related improvements. To ensure the project is not delayed, it is necessary to initiate the expropriation process to secure access to the lands in time for construction to commence. Staff will continue to negotiate for the acquisition of the required properties and expropriation proceedings will be abandoned in cases where negotiations are successful.

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.

Attachment (1)



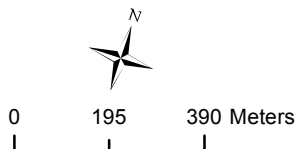
Path: G:\Legal\LD9 - Precedents\Maps\Maps to Council 2014\D1 - Application for Approval to Expropriate Attachment 1.mxd

LOCATION PLAN





Application for Approval to Expropriate
 Widening and Construction of Bus Rapid Transit Corridor
 Davis Drive (D1) vivaNext Project 90991
 Town of Newmarket



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 Corporate Services Department
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Legend

-  Subject Property
-  Parcel
-  Road
-  Railway