

Clause 33 in Report No. 12 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on September 21, 2017.

33

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 August 23, 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 August 23, 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 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.

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## 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 the map in Attachment 2.

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, the Region, via York Region Rapid Transit Corporation (YRRTC), is undertaking improvements to the road infrastructure and constructing dedicated centre lanes for Viva buses, along with enhanced street features and boulevards. The subject properties are located along Yonge Street from Sawmill Valley Drive/Savage Road to Davis Drive.

Council approved the expropriation of 37 properties along Yonge Street in [October 2013](#). This approval secured fee simple lands, permanent easements and three-year temporary easements. In [June 2016](#), Council approved the expropriation of additional temporary easements on 23 properties along Yonge Street. The terms of the additional temporary easements will expire on December 31, 2019.

Progressive corridor design has created three additional property requirements

VivaNext is being constructed using a design-build delivery system, which overlaps the project design and construction phases. The project identified the need for additional fee simple lands and temporary easements from three properties not originally required. These additional lands are required to accommodate drainage and grading to align the boulevard with private lands.

Possession of lands is required as soon as possible

Construction on the corridor is progressing and the opening of the bus rapid transit lanes is scheduled for 2019. These additional lands are required as soon as possible to accommodate the construction schedule.

#### 4. Analysis and Implications

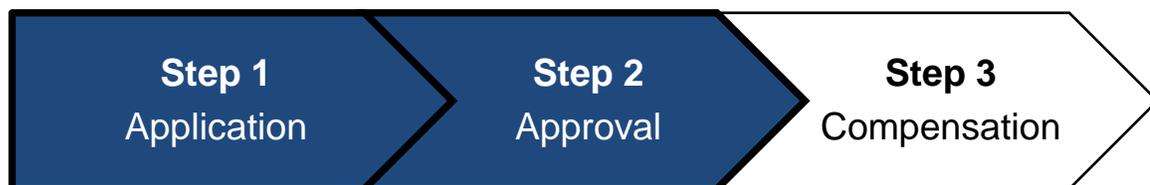
Initiating the expropriation process will secure access to the Lands

The preferred approach to obtaining land is to negotiate property interests with the property owner. Various events affect the timing of negotiations, such as owners who prefer to defer negotiations until project completion. In this regard, expropriation is necessary to ensure possession of the lands for the project.

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.



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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 give an opinion as to whether the taking is fair, sound and reasonably necessary.

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 and is anticipated to be in the first 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 is underway on the lands

Environmental due diligence is underway on the fee simple requirement and on lands in the vicinity of the Lands. 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 Lands, the Region will take appropriate action to minimize potential exposure to the Region. Any significant issues will be reported back to Council, if necessary.

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## 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

The construction of dedicated bus lanes and related facilities, as well as road and intersection improvements is critical to achieving the Region's plan for the corridor. This project will also improve public transit facilities and enrich the streetscape in Newmarket.

## 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. An additional three property requirements were identified by the project team, which are the subject of this report. Possession is required by June 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.

August 23, 2017

Attachments (2)

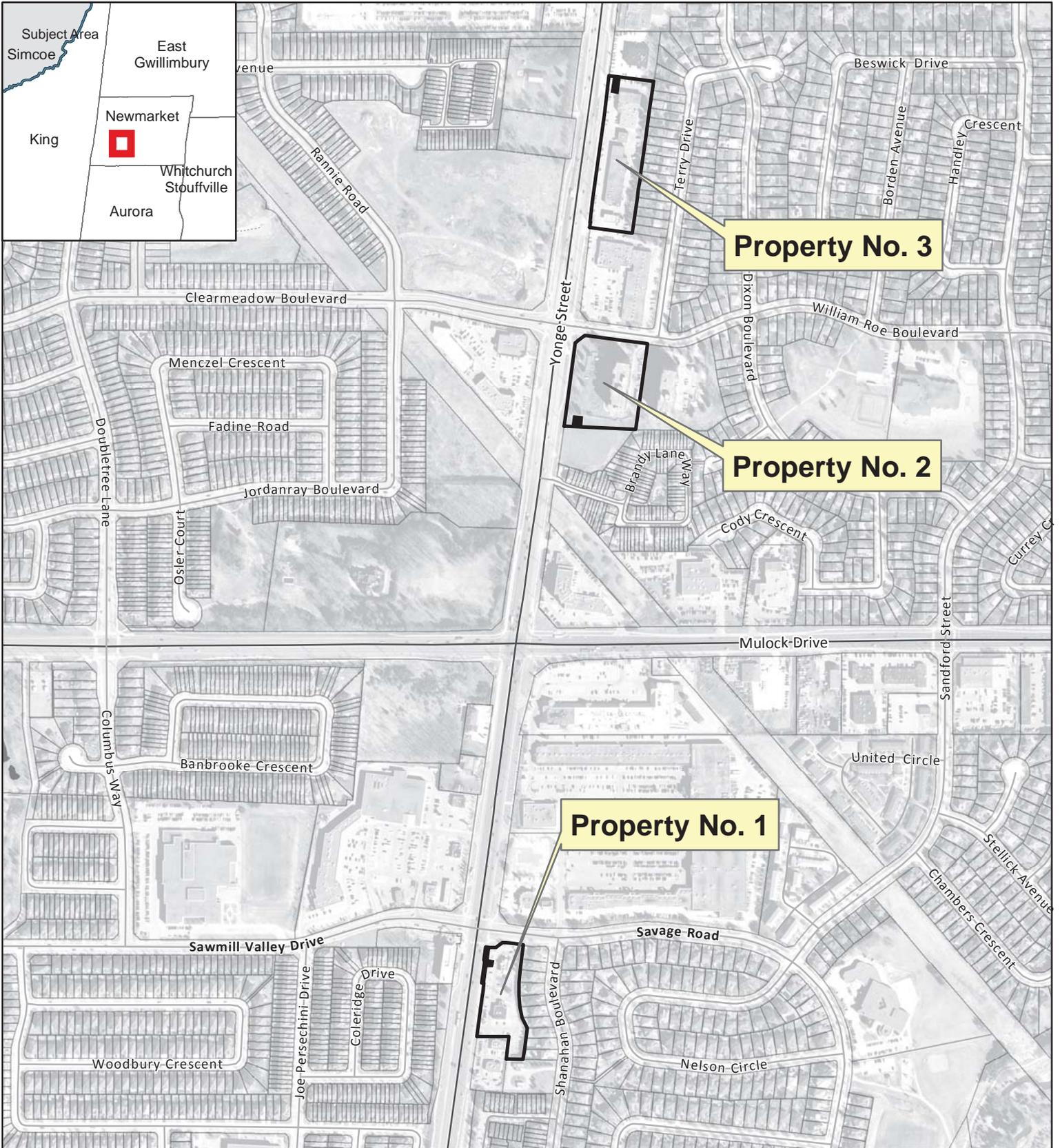
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Accessible formats or communication supports are available upon request

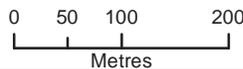
**Property Schedule  
Expropriation of Land  
Viva Bus Rapid Transit Corridor  
Yonge Street from Sawmill Valley Drive/Savage Road to Davis Drive  
Town of Newmarket**

| <b>No.</b> | <b>Owner</b>                             | <b>Municipal Address</b>              | <b>Legal Description</b>     | <b>Interest Required</b> |
|------------|--|---------------------------------------|------------------------------|--------------------------|
| 1.         | Gapper-Duncan Inc.                       | 16581-16599 Yonge Street<br>Newmarket | Parts 1, 3, Plan 65R37291    | Fee Simple               |
|            |  |                                       | Part 2, Plan 65R37291        | Temporary Easement       |
| 2.         | York North Condominium Corporation No. 5 | 20 William Roe Boulevard<br>Newmarket | Part 1, Plan 65R37221        | Temporary Easement       |
| 3.         | LT Realities Inc.                        | 16995 Yonge Street<br>Newmarket       | Parts 1, 2, 3, Plan 65R37260 | Temporary Easement       |

The temporary easements required are 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.



**Location Plan**  
 Expropriation of Land  
 Viva Bus Rapid Transit Corridor  
 Yonge Street from  
 Sawmill Valley Drive/Savage Road to Davis Drive  
 Town of Newmarket  
 September 7, 2017



**Legend**

-  Subject Property
-  Interest Required
-  Parcel
-  Road

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

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