

Clause 21 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 28, 2018.

21

Expropriation of Land
York Durham Sewage System Modifications
Town of Newmarket and Town of Aurora

Committee of the Whole recommends adoption of the following recommendations contained in the report dated June 7, 2018 from the Commissioner of Corporate Services:

1. Council authorize an application for approval to expropriate the lands set out in Attachment 1, for the York Durham Sewage System Modifications component of the Upper York Sewage Solutions project, within 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 held under the Act.
4. Council, as approving authority, approve the expropriation of the lands. Approval of the expropriation is deemed to be given effective 31 days following the publication of the Notice of Application for Approval to Expropriate Land. Such approval shall only be made effective provided there is no inquiry (Hearing of Necessity) 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 enactment of the necessary bylaw to give effect to these recommendations.

Report dated June 7, 2018 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 York Durham Sewage System Modifications component of the Upper York Sewage Solutions project, within 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 held under the *Act*.
4. Council, as approving authority, approve the expropriation of the lands. Approval of the expropriation is deemed to be given effective 31 days following the publication of the Notice of Application for Approval to Expropriate Land. Such approval shall only be made effective provided there is no inquiry (Hearing of Necessity) 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 enactment 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 York Durham Sewage System Modifications component of the Upper York Sewage Solutions project, in the Town of Newmarket. The locations of the subject lands are shown on the map in Attachments 2 and 3.

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

3. Background and Previous Council Direction

The Upper York Sewage Solutions project will provide servicing for planned growth

The purpose of the Upper York Sewage Solutions project is to develop a sustainable sewage servicing solution to accommodate planned growth for employment and communities in the Towns of Aurora, East Gwillimbury and Newmarket. The York Durham Sewage System Modifications is one of three major components of the Upper York Sewage Solutions project. The other two components are the proposed Water Reclamation Centre and the Total Phosphorous offsets initiative.

Council previously approved the expropriation of land for this project

On [May 19, 2016](#), Council authorized an application for approval to expropriate and on [September 22, 2016](#) Council authorized an approval to expropriate privately owned properties required for the York Durham Sewage System Modifications. The properties subject to this report were included in the expropriations, however, additional requirements have been identified.

Approval for the Environmental Assessment for the Upper York Sewage Solutions project is pending

The Upper York Sewage Solutions project is following the planning process established under the *Environmental Assessment Act* for an individual Environmental Assessment (EA). The EA was conducted in two parts, a Terms of Reference, essentially a road map for how the EA would be undertaken, and the EA itself. Having received approval from the Ministry of the Environment and Climate Change (MOECC) on the Terms of Reference, the final EA report was submitted for approval on July 25, 2014.

Following the submission, MOECC staff began an internal review and public consultation process, in accordance with regulatory guidelines. The Notice of Completion of Ministry Review was published on January 22, 2016. The public comment period on the review ended February 26, 2016. All comments received were documented and the next step is for the MOECC to render a decision on approval of the EA.

An Order was made under the Environmental Assessment Act to exempt the York Durham Sewage System Modifications component

On March 7, 2018, the Minister of Natural Resources and Forestry issued a declaration order to exempt the York Durham Sewage System Modifications component from the requirements of the *Environmental Assessment Act*. As a result, the Region is able to proceed and implement the twinning of the forcemains and alterations to the Newmarket and Bogart Creek Sewage Pumping Stations that comprise the York Durham Sewage System Modifications. The York Durham Sewage System Modifications include:

- A new 5.2 kilometre forcemain from the existing Newmarket Sewage Pumping Station to the existing gravity sewer that discharges to the Aurora Sewage Pumping Station.
- A new 0.5 kilometre forcemain from the existing Bogart Creek Sewage Pumping Station to the new Newmarket forcemain.

Alterations to the Newmarket and Bogart Creek Sewage Pumping Stations will occur to facilitate connection of the new forcemains.

4. Analysis and Implications

Expropriation ensures possession of required lands to accommodate timely delivery of infrastructure

The preferred approach to obtaining land is to negotiate a purchase agreement with the owner. The owners, subject to this report, are amenable and support the project, however, expropriation is deemed necessary to ensure timely possession of 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.

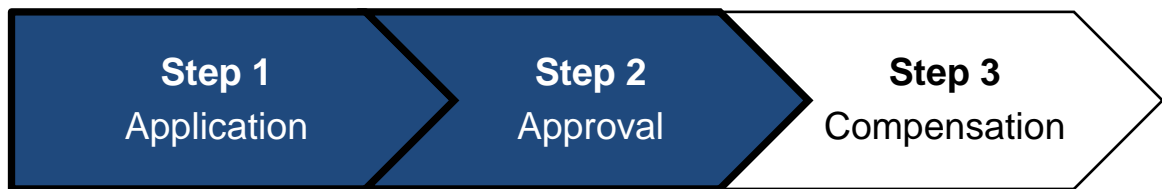
Approval by Council is required at various stages of the expropriation process

Approval by Council is required at three stages in the expropriation process, as indicated in Figure 1 below. These include the request to Council to authorize an application for approval to expropriate the lands, the expropriation of the lands,

and the offers of compensation made to the former owners of the lands due to the expropriation.

In an effort to ensure possession of the interest in the land to meet the construction schedule, the first and second steps in the Council approval process have been combined for this report, as indicated in Figure 1 below. The third step will be the subject of a future report to Council, in the event the expropriation proceeds. Possession of the land cannot be obtained until this third step has been completed and the owner is served an offer of compensation.

Figure 1
Council Approval Steps



Owners have the right to request a Hearing of Necessity upon receipt of a notice of application for approval to expropriate

Upon receiving approval by Council, the first step in the expropriation process is to serve owners with notice of its intent to expropriate. Upon receipt of the notice, each owner has the right within 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 an inquiry and the Hearing of Necessity proceeds, then subsequent to the inquiry, an inquiry officer will provide a report stating its opinion as to whether the taking is fair, sound and reasonably necessary, including an explanation for its findings. Staff will report to Council as to the findings and reasoning of the inquiry officer, along with further recommendations with respect to the expropriation.

Registration of an expropriation plan will secure access to the lands and ensure that construction can proceed

If no Hearing of Necessity is requested, expropriation plans 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, with registration of the plan anticipated to be in the summer of 2018.

Expropriation of Land
York Durham Sewage System Modifications
Town of Newmarket and Town of Aurora

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 interest in the land. However, further steps are required to obtain possession, or the right to access the land.

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 interest in the land is to take place no sooner than three months after registration of the expropriation plan. In addition, offers of compensation must be served on the owner to obtain possession.

Environmental due diligence has been completed

Environmental due diligence was completed on the subject properties and no impacts or environmental concerns were identified.

5. Financial Considerations

The funding required to complete these property acquisitions is included in the approved 2018 Capital Budget for Environmental Services.

6. Local Municipal Impact

The Upper York Sewage Solutions project is a key piece of infrastructure required to accommodate forecasted growth in the Towns of Aurora, East Gwillimbury and Newmarket. With receipt of the declaration order for the York Durham Sewage System Modifications, implementation of this project can proceed.

The York Durham Sewage System forcemain twinning project will ensure reliable wastewater service for the local community, and will enable the Region to address the risks of sewage overflow and surcharge during high-flow conditions in the Town of Newmarket.

The acquisition of the subject properties supports the construction of the York Durham Sewage System Modifications.

7. Conclusion

The purpose of the York Durham Sewage Systems Modifications project is to develop a sustainable sewage servicing solution to accommodate planned growth in the Towns of Aurora and Newmarket.

The declaration order issued by the Minister of Natural Resources and Forestry exempts the York Durham Sewage System Modifications component from the requirements of the Environmental Assessment Act, which allows the Region to proceed and implement the twinning of the forcemains and alterations to the Newmarket and Bogart Creek Sewage Pumping Stations that comprise the York Durham Sewage System Modifications.

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 Michael Shatil, Director, Property Services at 1-877-464-9675 ext. 71684.

The Senior Management Group has reviewed this report.

June 7, 2018

Attachments (3)

#8547057

Accessible formats or communication supports are available upon request

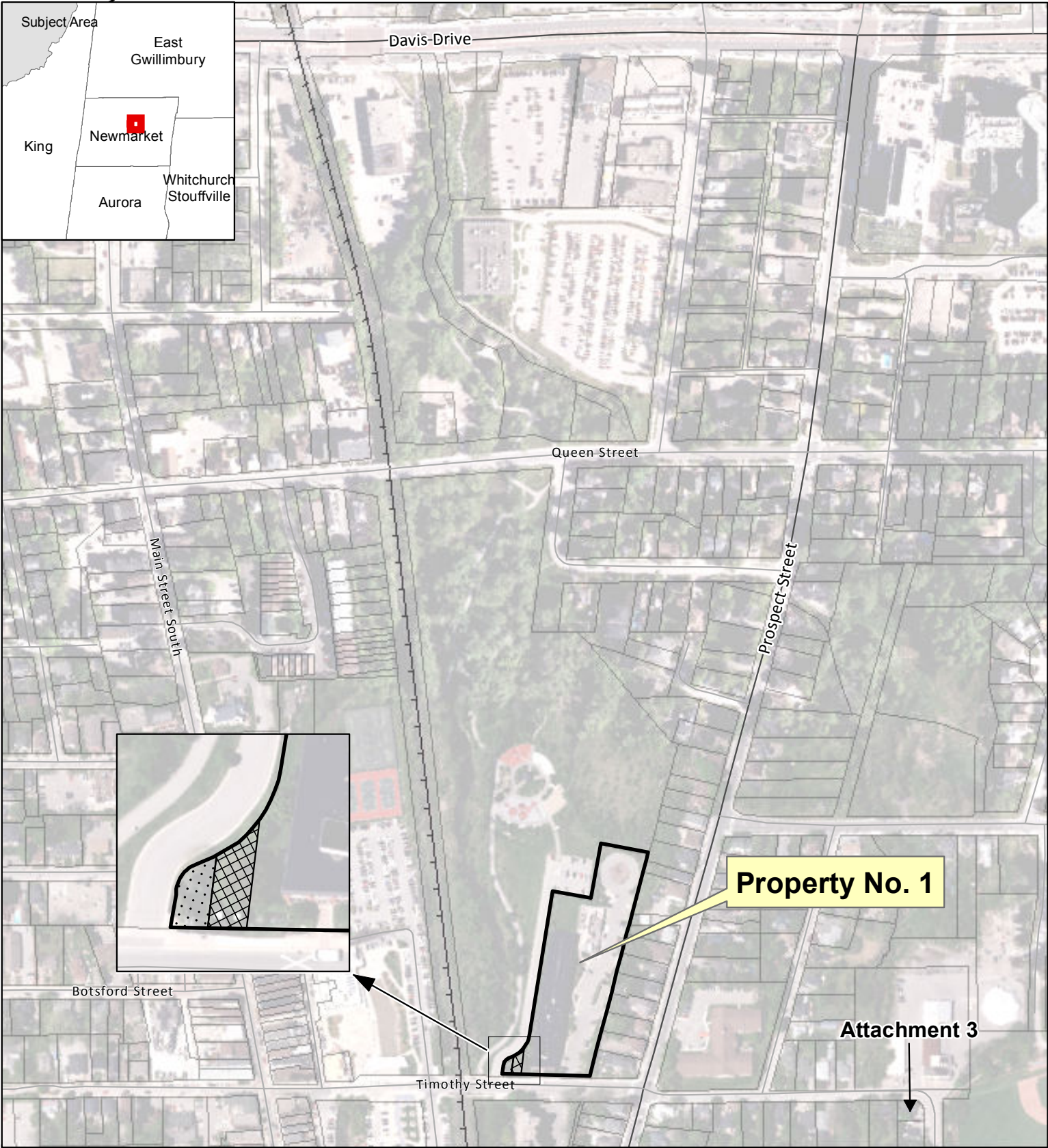
**Property Schedule
Expropriation of Land
York Durham Sewage System Modifications
Town of Newmarket and Town of Aurora**

No.	Owner	Municipal Address	Legal Description	Interest Required
1.	St. Andrews Valley Golf Club LTD.	4 Pinnacle Trail Aurora	Parts 2, 3, & 5 Plan 65R37352	Permanent Easement
			Parts 1, 4, 6 & 18 Plan 65R37352	Temporary Easement
2.	York Region Standard Condominium Corporation No. 1047	543 Timothy Street, Newmarket	Part 1, Plan 65R37312	Permanent 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, 2023 in, under, over, along and upon the lands 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 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 stalls, (iii) shoring and formwork, (iv) drainage and erosion/sediment control measures, (v) fencing, and (vi) handrails, and (8) works ancillary to any of the foregoing and necessary to the works to be performed in association with the York Durham Sewage System Improvements.

The permanent easements required are described as a limited interest in perpetuity in, under, over, along and upon the land 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 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

No.	Owner	Municipal Address	Legal Description	Interest Required
<p>soft landscaping, paving, grading and reshaping the lands to the limit of the reconstruction, (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) fencing, and (vi) handrails, and (7) works ancillary to any of the foregoing and necessary to the works to be performed in association with the York Durham Sewage System Improvements.</p>				



York Region

Produced by:
The Regional Municipality of York
Property Services, Corporate Services
May 2018

Data: © Queen's Printer for Ontario 2003-2018

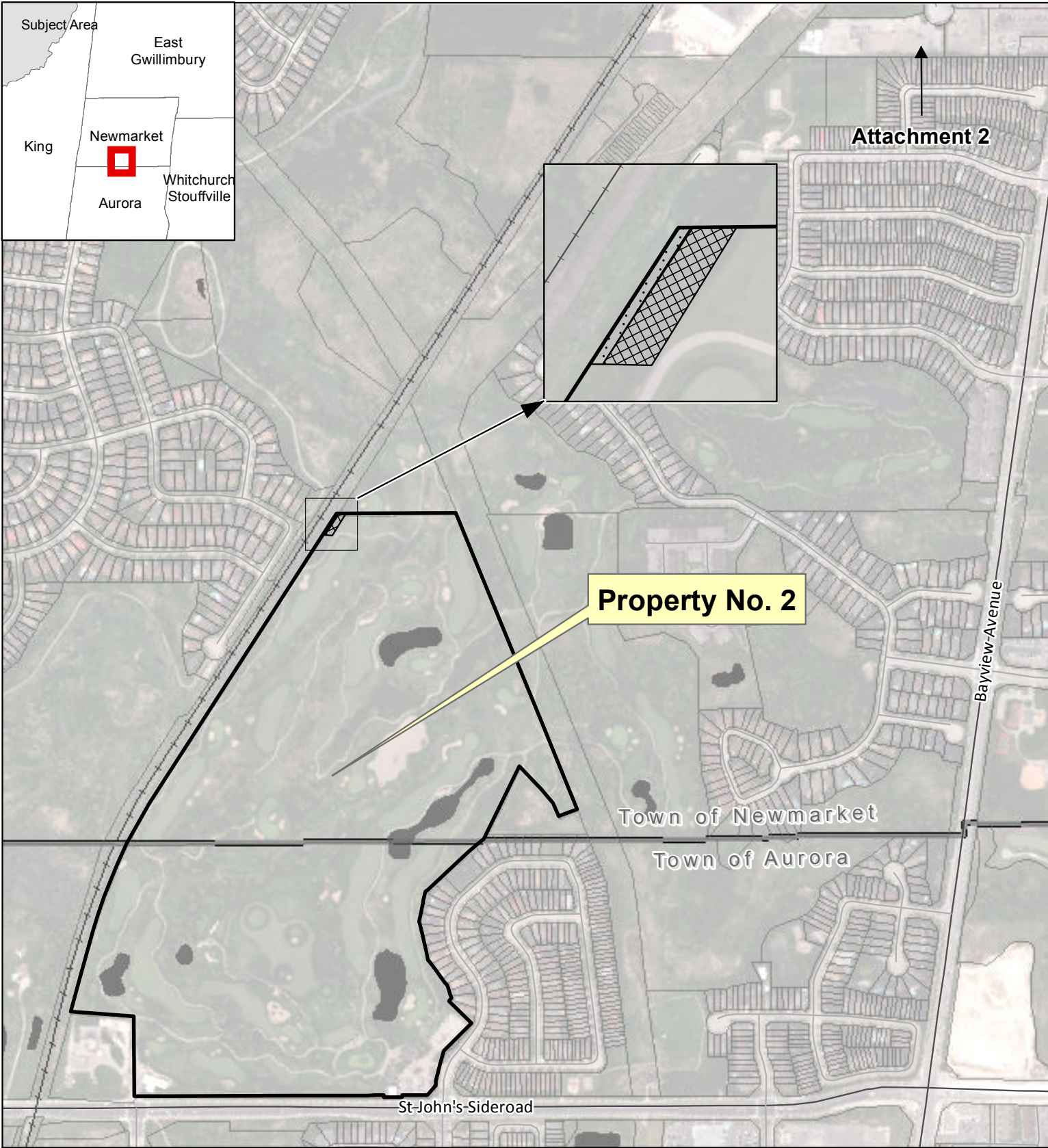
Imagery: © First Base Solutions Inc. 2017
See York.ca for disclaimer information.

Location Plan
Expropriation of Land
York Durham Sewage
System Modifications
Town of Newmarket and
Town of Aurora
June 21, 2018

0 25 50 100 150
Metres

Legend

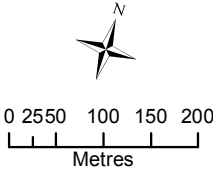
- Subject Property
- Interest Required
- Previously Acquired
- Parcel
- Road



Location Plan
 Expropriation of Land
 York Durham Sewage
 System Modifications
 Town of Newmarket and
 Town of Aurora
 June 21, 2018

Legend

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



Produced by:
 The Regional Municipality of York
 Property Services, Corporate Services
 May 2018
 Data: © Queen's Printer for Ontario 2003-2018
 Imagery: © First Base Solutions Inc. 2017
 See York.ca for disclaimer information.
 G:\Legal\L09 - Precedents\Maps\Maps to Council 2018\Expropriation_YorkDurhamSewageSystemModification_A3.mxd