

Clause 11 in Report No. 3 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on February 15, 2018.

11

Expropriation Settlement
Viva Bus Rapid Transit Corridor
17555 Yonge Street
Town of Newmarket

Committee of the Whole recommends adoption of the following recommendations contained in the report dated January 25, 2018 from the Commissioner of Corporate Services:

1. Council authorize the settlement of a business loss claim related to the property identified in Attachment 1, for the construction of the bus rapid transit corridor on Davis Drive, in the Town of Newmarket.
2. The Commissioner of Corporate Services be authorized to execute the Minutes of Settlement and all necessary documentation to complete the transaction in accordance with the Minutes of Settlement.

Report dated January 25, 2018 from the Commissioner of Corporate Services now follows:

1. Recommendations

It is recommended that:

1. Council authorize the settlement of a business loss claim related to the property identified in Attachment 1, for the construction of the bus rapid transit corridor on Davis Drive, in the Town of Newmarket.
2. The Commissioner of Corporate Services be authorized to execute the Minutes of Settlement and all necessary documentation to complete the transaction in accordance with the Minutes of Settlement.

Expropriation Settlement
Viva Bus Rapid Transit Corridor
17555 Yonge Street
Town of Newmarket

2. Purpose

This report seeks Council approval to accept the Minutes of Settlement for a tenant's business loss claim at 17555 Yonge Street in Newmarket for the vivaNext project. The property location is shown on the map in Attachment 2.

Private Attachment 1 to this report will be considered in private session because it relates to the acquisition of land by the Region and claim for compensation by a tenant on the property.

3. Background and Previous Council Direction

The Region constructed dedicated bus rapid transit lanes for the vivaNext project along Davis Drive in Newmarket

To facilitate public transit along Davis Drive, York Region Rapid Transit Corporation (YRRTC) on behalf of the Region, constructed dedicated centre lanes for Viva buses, with enhanced street features and boulevards from Yonge Street to Alexander Road in Newmarket. Following approval from the Ministry of the Environment, construction of the new rapidway began in May 2009, and was completed in December 2015.

Land requirements were identified to complete the project and steps were taken to obtain the lands

The Region identified land requirements from 138 property owners as part of the vivaNext project on the Davis Drive corridor between Yonge Street and Alexander Road in Newmarket. All lands required to facilitate the project were obtained through amicable negotiations, expropriation, and Regional site plan approvals.

Settlements were reached with the fee simple owners

The original land requirements were obtained in 2009 based on Council approvals in [October 2009](#). The property was subsequently sold. Additional temporary easements were required from the new fee simple owner, which were approved by Council in [June 2013](#). Appraisals were prepared and used to make offers of compensation under Section 25 of the *Expropriations Act* (the "Act") to the registered owners.

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Given that both the former and current owners of the subject property were subject to expropriation, both parties were entitled to compensation under the *Act*. A settlement with the current property owner was finalized in 2013. An agreement has been negotiated to resolve the former owner's claims. The settlement is in the final stages of completion. The settlement that is the subject of this report is with Shoppers Drug Mart Inc./Shoppers Realty Inc. (Shoppers), one of the tenants at the subject location.

The tenant submitted a business loss claim to the Region

By virtue of its leasehold interest at the time of the expropriations, Shoppers is entitled to make a claim for compensation for business loss pursuant to the *Act*. Shoppers made a business loss claim for construction-related impacts, which was prepared by a business loss analyst. Upon receipt of the claim, the Region obtained a professional claim review and retail market assessment, which formed the basis of the Region's position during negotiations.

4. Analysis and Implications

A settlement has been negotiated with the tenant

With the assistance of the Board of Negotiation, the Region and Shoppers have negotiated a full and final settlement of all expropriation interests associated with the tenant, including business loss, disturbance damages, and other costs in accordance with the *Act*.

The Region will not incur additional expenses once the final settlement is completed

The negotiated full and final settlement is considered to be in the best interest of the Region. The Region will not incur any further claims and associated legal and litigation expenses from Shoppers in relation to the acquisition.

Environmental due diligence has been completed on the fee simple lands and permanent easements

Environmental due diligence has been completed. The results have been reviewed by staff in consultation with Legal Services. No significant issues were identified and no further investigation is required.

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5. Financial Considerations

The funding to complete this property settlement is included in the 2018 YRRTC Capital Budget. The project is funded by the Province, via the Metrolinx Master Agreement.

6. Local Municipal Impact

This project has improved public transit and streetscape along Davis Drive for the residents of Newmarket and York Region.

7. Conclusion

The Region expropriated land from 17555 Yonge Street in Newmarket for the vivaNext project. A settlement has been completed with the current owner of the property, and another settlement is near completion with the party that owned the property in 2009 when the first expropriation took place.

The Region has negotiated a full and final business loss settlement with the tenant, Shoppers, that represents good value to the Region.

It is recommended that Council authorize the expropriation settlement described in this report to settle all claims with Shoppers.

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.

January 25, 2018

Attachments (2)

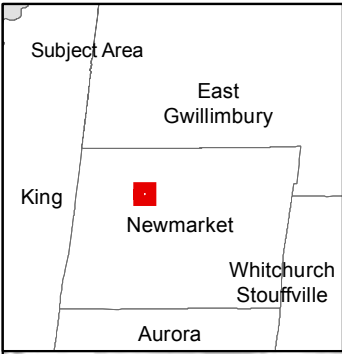
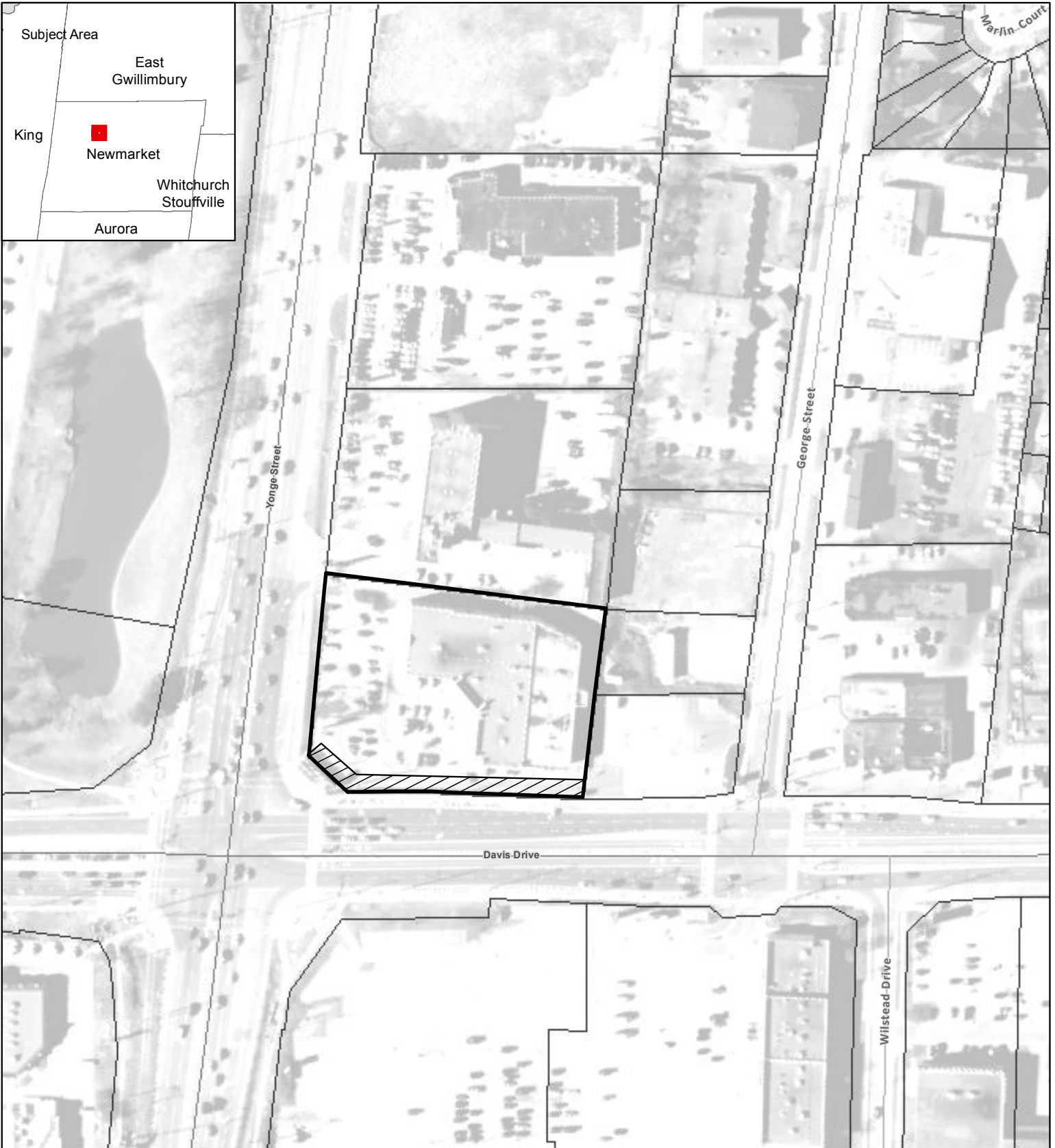
Private Attachments (1)

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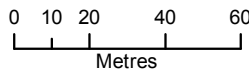
Accessible formats or communication supports are available upon request

**Property Schedule
Expropriation Settlement
Viva Bus Rapid Transit Corridor
17555 Yonge Street
Town of Newmarket**





| No. | Tenant | Municipal Address | Legal Description and Interest Required | Claim Type |
|-----|--|---------------------------------|---|---------------|
| 1. | Shoppers Drug Mart Inc. and Shoppers Realty Inc. | 17555 Yonge Street Newmarket | Part 1, 6, 7, 10, 11, 17, 18, 19, 20, 24, 28, Expropriation Plan YR1369724 (Fee Simple) | Business Loss |
| | | | Part 2, 5, 8, 12, 13, 15, 16, 21, 22, 23, 25, 29, 32, Expropriation Plan YR1369724 (Permanent Easement) | |
| | | | Part 3, 4, 9, 14, 26, 27, 30, 31, 33, 34, Expropriation Plan YR1369724; and Part 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, Expropriation Plan YR1888740 (Temporary Easement) | |




Location Plan
 Expropriation Settlement
 Viva Bus Rapid Transit Corridor
 17555 Yonge Street
 Town of Newmarket
 February 8, 2018



Legend

-  Subject Property
-  Interest Required
-  Parcel
-  Road


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