

7

**EXPROPRIATION OF LAND - DAVIS DRIVE, VIVA PROJECT 90760
TOWN OF NEWMARKET**

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report dated February 8, 2011, from the Commissioner of Corporate Services.

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council authorize an application for approval to expropriate the following lands within the Town of Newmarket, in The Regional Municipality of York:
 - a) a fee simple interest in approximately 0.0083 hectares (0.020 acres), being Parts 1, 2 and 3 on Plan 65R-32276.
 - b) a permanent easement in approximately 0.0176 hectares (0.043 acres), being the lands shown as Parts 1 and 2 on DWG. No.: 102B and 105 REV1, for entering on the lands with all vehicles, machinery, workmen and other material for municipal purposes including, but not limited to, construction and maintenance of a drainage system, associated public utilities including hydro power lines, site clearance, relocation, reconstruction or demolition of any structure including buildings and site improvements, or any part thereof, and any works ancillary thereto including utility relocation and site grading.
 - c) a temporary limited easement in approximately 0.094 hectares (0.232 acres), being the lands shown as Parts 3, 4 and 5 on DWG. No.: 102B and 105 REV1, for municipal purposes including, but not limited to, site clearance, relocation, reconstruction or demolition of any structure including buildings and site improvements, or any part thereof, and any works ancillary thereto including gas pipeline and other utility relocation works and site grading.
 - d) a fee simple interest in approximately 0.0126 hectares (0.031 acres), being the lands shown as Parts 1, 2, 3 and 4 on DWG. No.: 102A REV2.

The said lands are generally shown on the attached location plan (*see Attachment 1*).

2. The Commissioner of Corporate Services be authorized to serve and publish Notice of Application as required by the *Expropriations Act*.

3. The Commissioner of Corporate Services be authorized to forward to the Chief Inquiry Officer any requests for a Hearing of Necessity that may be received and conduct such Hearings as may proceed pursuant to the provisions of the *Expropriations Act*.
4. Regional Council, as approving authority, approve of the expropriation of the lands described in Recommendation 1, provided there is no Hearing of Necessity and subject to confirmation of funding as set out in this report.
5. If approval to expropriate the lands is given, the Manager, Realty Services, Viva, be authorized to execute and serve any notices required by the *Expropriations Act* as may be necessary to effect the approved expropriations.
6. The lands being expropriated and required for road purposes be dedicated as a common and public highway.
7. Authority be granted for the introduction of the necessary bills in Council to give effect to the foregoing.

2. PURPOSE

The purpose of this report is to obtain Council's approval to expropriate additional required land from owners along Davis Drive (D1), in the Town of Newmarket, in order to implement certain road and intersection improvements and to provide designated lanes for the Viva transit system along the corridor.

3. BACKGROUND

Davis Drive is an important corridor in the vivaNext bus rapid transit network and is scheduled for construction in the spring of 2011

The Region is undertaking improvements to the road infrastructure and the construction of dedicated lanes for Viva buses along Davis Drive between Yonge Street and the Southlake Regional Health Centre, in the Town of Newmarket. The additional width will allow for dedicated eastbound and westbound lanes for the Viva buses, streetscape and boulevards.

The lands required for this project have been acquired and the design/build phase is proceeding. Additional property requirements have now been identified by the Design Team. Although negotiations are currently being carried out to acquire the additional property rights amicably, it is necessary to expropriate these lands in order to meet the construction schedule.

Environmental Assessment approval to undertake the project was received in January 2009

This project is part of vivaNext and the improvements described herein were set out in the Transit Class Environmental Assessment for North Yonge Street. Approval was received in January 2009.

4. ANALYSIS AND OPTIONS

The expropriation process must commence to ensure these property rights are acquired by the summer of 2011

In order to ensure the project is not delayed, it is necessary to enable the expropriation process.

The next step in the process is to authorize the issuance of Notices of Application for Approval to Expropriate. The issuance of the Notices will not create any legal obligation for the Region.

The issuance of the Notices of Application this winter will protect the construction timeline. Failure to deliver the Notices this winter will result in delay costs to the project.

Offers of compensation must be made under Section 25 of the *Expropriations Act* to all owners listed on the reference plans. These offers must be made within 90 days of the registration of the expropriation plans and prior to taking possession of the land.

The reference plans necessary for expropriation are being finalized

If the reference plans required for the expropriation are not finalized, sketches of the anticipated takings will be available at Committee.

Pending finalization of the reference plans, the lands to be acquired are currently described by reference to drawings. The full legal description will be substituted as soon as reference plans are completed.

5. FINANCIAL IMPLICATIONS

These Davis Drive property costs are funded through the MoveOntario 2020 \$1.4 billion Announcement

The executed Memorandum of Agreement recognizes all costs associated with expropriation and property acquisition as project costs, based on an established budget. York Region Rapid Transit Corporation staff provide Metrolinx with cash flow estimates

for all project activities to ensure that adequate funds are advanced to York Region for the payment of project expenses.

6. LOCAL MUNICIPAL IMPACT

The construction of dedicated lanes along Davis Drive for Viva buses will integrate improved public transit facilities, improving and enriching streetscapes to support the Region's goal for higher density mixed use transit-oriented development in accordance with approved official plans.

7. CONCLUSION

Construction of vivaNext on Davis Drive in the Town of Newmarket, in the vicinity of these additional property requirements will resume in the spring of 2011. The purpose of this report is to obtain Council's approval to initiate the expropriation process for additional property interests required from owners along Davis Drive in order to resolve construction issues identified in the design build process. In order to ensure the project is not delayed, it is necessary to initiate the expropriation process; however, this does not preclude the Region from entering into a negotiated agreement with the owners. The initiation of the expropriation process does not create any legal obligations for the Region to proceed with the expropriations.

For more information on this report, please contact Chris Harker, Manager, Realty Services (Viva), Property Services Branch at Ext. 1899.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause was included in the agenda for the March 3, 2011 Committee meeting.)



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LOCATION PLAN

Expropriation of Land (Widening of Davis Drive)
Davis Drive, Town of Newmarket



0 45 90 180 Metres

A horizontal scale bar with markings at 0, 45, 90, and 180 metres.

PROPERTY SERVICES

