

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 20, 2018.

33

Expropriation Settlement
Viva Bus Rapid Transit Corridor
54 Davis Drive
Town of Newmarket

Committee of the Whole recommends adoption of the following recommendations contained in the report dated August 16, 2018 from the Commissioner of Corporate Services:

1. Council authorize the settlement of all claims pursuant to the Expropriations Act 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.

(See Clause 44.)

Report dated August 16, 2018 from the Commissioner of Corporate Services now follows:

1. Recommendations

It is recommended that:

1. Council authorize the settlement of all claims pursuant to the *Expropriations Act* 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
54 Davis Drive
Town of Newmarket

2. Purpose

This report seeks Council approval to accept the Minutes of Settlement for a business loss claim at 54 Davis Drive 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 the owner.

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 the Davis Drive, York Region Rapid Transit Corporation (YRRTC) on behalf of the Region, constructed dedicated centre bus lanes for Viva buses, with enhanced street features 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 negotiated agreements, expropriation, and dedications through Regional site plan approvals.

A partial settlement was reached with the owner in 2014

The original land requirements were acquired in 2009, based on Council approvals in [October 2009](#). Additional requirements were acquired in 2012 and 2014 based on Council approvals in [June 2013](#), [May 2014](#) and [January 2015](#). Appraisals were prepared and used to make offers of compensation under Section 25 of the *Expropriations Act* (the "Act").

A final settlement was reached for the 2009 and 2012 expropriations, and a partial settlement was reached for the 2014 expropriation, which settled the

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market value of land, but allowed the owner the right to make future claims for injurious affection, disturbance damages and business loss.

The owner submitted a business loss claim to the Region in 2016

The owner made a business loss claim for construction-related impacts. The claim was accompanied by a report prepared by a business loss analyst. The owner claimed that construction affected its ability to lease its retail units.

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 final negotiations.

The owner's right to make a compensation claim from the neighbouring Yonge Street expropriation are not part of this settlement

The subject property has a permanent access easement on a neighbouring property, 20 Davis Drive, which is affected by lands expropriated for the construction of the bus rapid transit corridor on Yonge Street. The subject property owner's right to make a compensation claim related to the easement is not part of this settlement.

4. Analysis and Implications

A settlement has been negotiated

With the assistance of the Board of Negotiation in September 2017, the Region and the owner negotiated a full and final settlement of all remaining expropriation interests along Davis Drive including business loss, disturbance damages, and injurious affection in accordance with the *Act*.

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

This negotiated full and final settlement is considered to be in the best interest of the Region. The compensation is near the Region's original valuation. The Region will not incur any further claims and associated legal and litigation expenses from the owner in relation to the expropriations for Davis Drive.

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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.

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 54 Davis Drive in Newmarket for the vivaNext project. The Region and owner settled all compensation claims, except for the owner's right to make future claims for injurious affection, disturbance damages and business loss. The owner made a business loss claim after the completion of Davis Drive. The Region has now negotiated a full and final settlement with the owner that balances the construction impacts and stops any further claims and associated legal and litigation expenses. It is recommended that Council authorize the expropriation settlement described in this report to settle all outstanding Davis Drive claims with the owner.

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.

Expropriation Settlement
Viva Bus Rapid Transit Corridor
54 Davis Drive
Town of Newmarket

Recommended by:

Approved for Submission:

Dino Basso
Commissioner of Corporate Services

Bruce Macgregor
Chief Administrative Officer

August 16, 2018

Attachments (2)

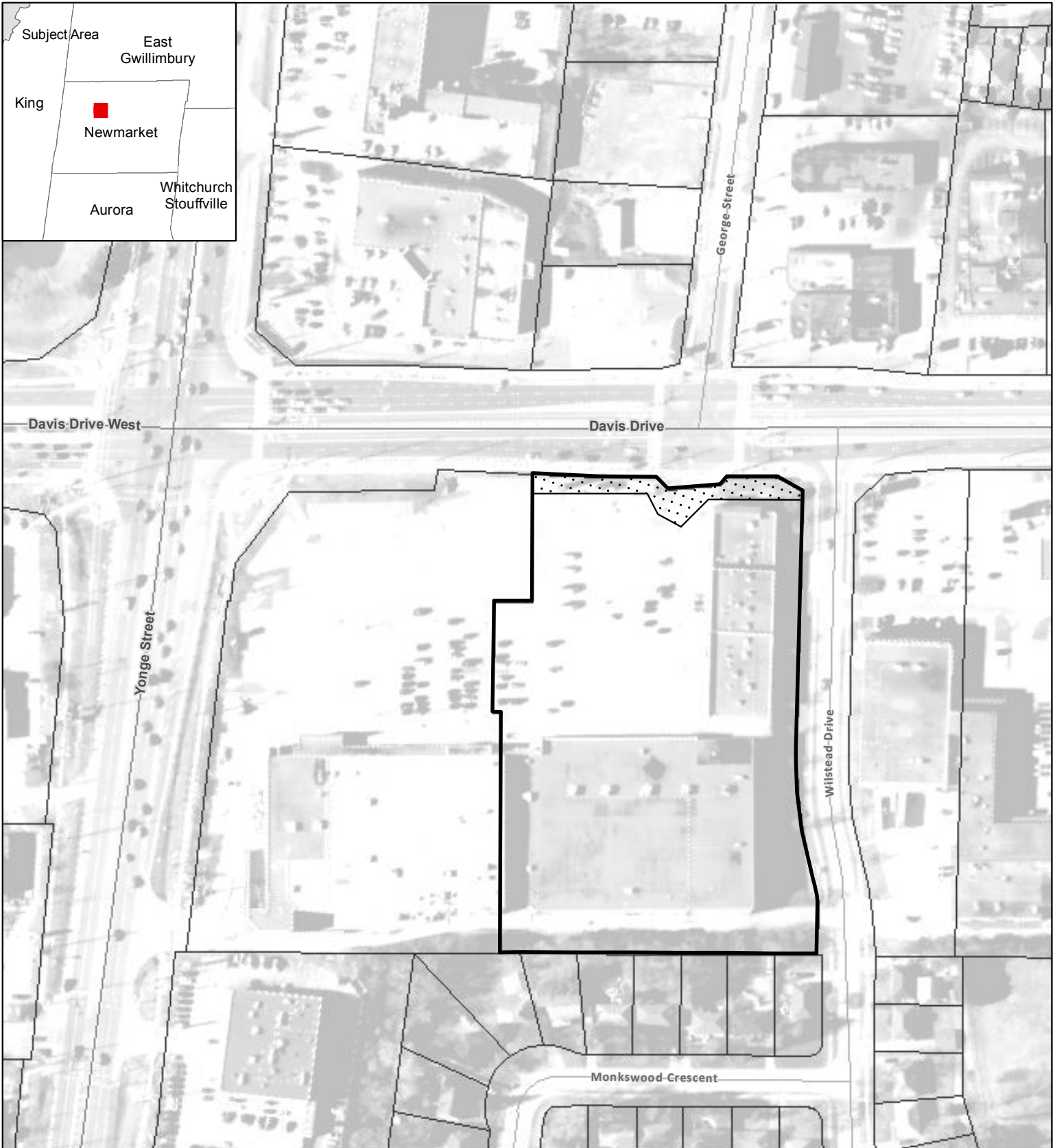
Private Attachments (1)

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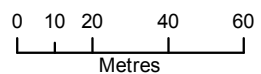
Accessible formats or communication supports are available upon request

**Property Schedule
Expropriation Settlement
Viva Bus Rapid Transit Corridor
54 Davis Drive
Town of Newmarket**



No.	Owner	Municipal Address	Legal Description and Interest Required	Claim Type
1.	Monashee Holdings Ltd.	54 Davis Drive Newmarket	Part 1, 2, 3, 4, 5, 6, Expropriation Plan YR2224387 (Permanent Easement)	Market Value of Land (settled previously)
	and Timeoso Inc.		Part 1, 2, 3, 4, 5, 6, 7, 8, Expropriation Plan YR2094881 (Temporary Easement)	and Business Loss



Location Plan
 Expropriation Settlement
 Viva Bus Rapid Transit Corridor
 54 Davis Drive
 Town of Newmarket
 September 6, 2018



Legend

-  Subject Property
-  Interest Required
-  Parcel
-  Road



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 (Branch Name), (Department Name)
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