

Clause 16 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 June 25, 2015.

16
 Expropriation Settlement
 Viva Bus Rapid Transit Corridor
 180 Davis Drive
 Town of Newmarket

Committee of the Whole recommends adoption of the recommendation contained in the report dated May 6, 2015 from the Commissioner of Corporate Services:

1. Recommendations

It is recommended that:

1. Council authorize the settlement of the expropriation of the following land required for the construction of the bus rapid transit corridor on Davis Drive, in the Town of Newmarket, on the terms set out in this report.

| No. | Owner | Municipal Address | Legal Description | Interest Required |
|-----|---------------------|------------------------------|------------------------------|-------------------|
| 1. | 686331 Ontario Ltd. | 180 Davis Drive Newmarket | Part 1, 2, Plan YR1363566 | Fee Simple |

2. Council authorize Property Services staff to dispose of the property at 180 Davis Drive as per the Region's Sale and Disposition of Land Policy.

2. Purpose

This report seeks Council approval to settle with the former property owner, as set out in a Full and Final Release, for lands that have been expropriated for the vivaNext Davis Drive project, as shown in Attachment 1. This report also seeks Council approval to dispose of these same lands in accordance with the Region's Sale and Disposition of Land Policy.

3. Background

The Region is constructing dedicated bus rapid transit lanes for vivaNext along Davis Drive in Newmarket

To facilitate public transit along Davis Drive in Newmarket, the Region, via York Region Rapid Transit Corporation (YRRTC), is undertaking improvements to the road infrastructure and the construction of dedicated centre lanes for Viva buses, along with enhanced street features and boulevards. The project received approval from the Ministry of the Environment in 2005.

The new viva rapidway along Davis Drive is expected to be completed in December 2015

Construction of the new Viva rapidway along Davis Drive began in 2010 and runs for 2.6 kilometres from Yonge Street to just past the Southlake Regional Health Centre. The Davis Drive rapidway is approximately 70 per cent completed and the rapidway is expected to open in December 2015.

A subsequent construction phase will have all Viva buses running in the curbside lanes from the Southlake Regional Health Centre eastward to Highway 404, a distance of an additional 2.3 kilometres.

The Region obtained possession of 133 properties by expropriation in 2009

On January 22, 2009, Council approved the expropriation of the initial interests required for the construction of the Davis Drive corridor, which involved various property takings from 133 property owners. Possession of the lands was obtained. Negotiations are ongoing to reach final settlements with all property owners.

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The project design included a realignment of Parkside Drive, requiring a full buyout of 180 Davis Drive

As part of the planning and design of the rapidway, Parkside Drive needed to be realigned to create a functional signaled intersection at Davis Drive, aligning Parkside Drive to the south and Longford Drive to the north, as shown in Attachment 1. The new realignment consumed a significant portion of 180 Davis Drive, including the existing buildings, warranting the need for a full buyout of the property. Possession of the subject property was obtained and all buildings were removed. The former buildings at 180 Davis Drive were used as automotive service garages.

A portion of the subject property was not required for the new Parkside Drive alignment. This portion is currently being used as a temporary parking lot for a neighbouring property, and is the land that is being considered for disposal.

The Region completed environmental remediation on the subject property

As part of the expropriation, the Region conducted an Environmental Site Assessment, which identified contaminants that required remediation. Upon obtaining possession of the lands, remediation of contaminants was undertaken as part of the project.

4. Analysis and Options

The Region and former owner have negotiated a settlement of claims from the expropriation

The former owner of 180 Davis Drive accepted an offer of compensation made under section 25 of the *Expropriations Act* (the "Act") for the market value of the property, subject to future claims for compensation. Ongoing negotiations have led to a full settlement between the parties which includes the former owner providing a Full and Final Release of any claims under the Act in exchange for additional compensation. The compensation associated with the settlement/Full & Final Release is subject to the approval of Metrolinx.

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Negotiations are based on an independent appraisal of the subject property, less a deduction for environmental remediation

The Region's original statutory offer made to the former owner in 2009 did not result in a settlement. The offer was based on an independent appraisal, however, the Region deducted the full amount of environmental remediation costs from the statutory offer. The former owner accepted the offer in accordance with section 25(b) of the *Act*, which provides that the owner may make a claim for compensation in the future.

The negotiated compensation is considered to be in the best interest of the Region, as it is based on the original appraisal, and takes into consideration the deduction for environmental remediation.

A portion of the subject land is not required for the project

Prior to the expropriation in 2009, the site area of 180 Davis Drive was approximately 24,485 square feet (2,274.71 square metres). The portion of the site utilized for the project encompassed 10,663 square feet (990.6 square metres), which equates to approximately 45% of the original site area of 180 Davis Drive.

The project has constructed a temporary parking lot on the remaining portion of this property as a short term mitigation measure for the adjoining property. It has been determined that the remaining land is not required for the project, hence the recommendation for its disposal.

The owner has released all rights to repurchase lands not required for the vivaNext project

The negotiated settlement involves the former owner agreeing to release all claims associated with the expropriation. Under the *Act*, a party that has been subject to expropriation retains the right to repurchase any portion of the expropriated land determined as unnecessary for the purpose for which it was expropriated. The settlement/Full and Final Release to which the former owner has agreed will allow the Region to proceed with the disposal of the remainder of 180 Davis Drive.

Link to key Council-approved plans

From Vision to Results: 2011 to 2015 Strategic Plan

Priority Area – Strengthen the Region's Economy

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Focusing on networks and systems that connect people, goods and services

Priority Area – Manage Environmentally Sustainable Growth

Managing traffic congestion

The acquisition of these lands will support the development of bus rapid transit corridors, which is intended to increase of the number of rapidway lane kilometres and transit ridership per capita.

5. Financial Implications

The funding to complete this property settlement is included in the 2015 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 along Davis Drive from Yonge Street to Alexander Road, is critical in the achievement of the vision for the Region.

Additionally, upon completion this project will improve public transit facilities and enrich the streetscapes Newmarket, to support the Region's goal for higher density mixed use transit-oriented development.

7. Conclusion

In 2009, the Region expropriated a full property taking for 180 Davis Drive for the vivaNext project, as part of an expropriation of 133 properties. The full buyout was necessary because the realignment of Parkside Drive required the removal of the buildings from the site.

The Region has negotiated a settlement/Full and Final Release with the former owner. The settlement/Full and Final Release will preclude the former owner from making any further claims, and will allow the Region to proceed with the disposition of the portion of 180 Davis Drive not required for the project.

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It is recommended that Council authorize the expropriation settlement described in this report to allow completion of the transaction.

It is also recommended that Council authorize the disposition of the remaining lands as per the Region's Sale and Disposition of Land Policy.

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For more information on this report, please contact Eric Bjornson, Acting Manager, Realty Services, Property Services Branch at ext. 71706.

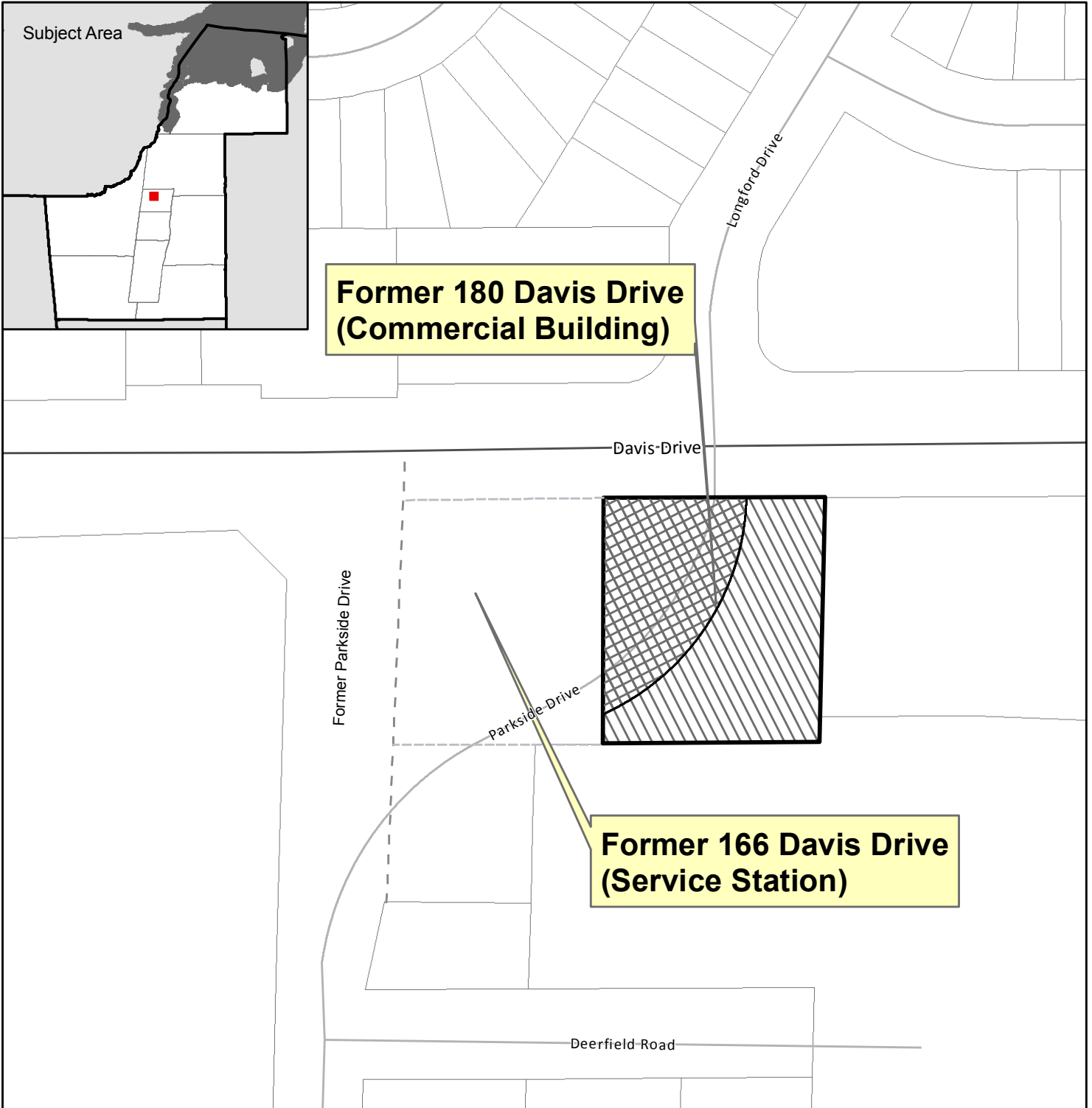
The Senior Management Group has reviewed this report.

May 6, 2015

Attachments (1)

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Accessible formats or communication supports are available upon request



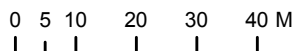
LOCATION PLAN

Expropriation Settlement
 Viva Bus Rapid Transit Corridor
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 Property Services, Corporate Service
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Legend

-  Subject Property
-  Dedicated to Road ROW
-  Potential Surplus
-  Parcel
-  Road