



Clause No. 17 in Report No. 2 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on January 22, 2015.

Compensation for Expropriation  
Viva Bus Rapid Transit Corridor  
175 Deerfield Road  
Town of Newmarket

**Committee of the Whole recommends adoption of the following recommendation contained in the report dated December 19, 2014 from the Commissioner of Corporate Services:**

1. Recommendations

It is recommended that:

1. Council authorize the Commissioner of Corporate Services to make an offer of compensation to the owner of the following land in the Town of Newmarket, which was acquired in accordance with the *Expropriations Act* (the "Act").

No.	Owner	Municipal Address	Legal Description	Interest Required
1.	Bridon Baker Developments Inc.	175 Deerfield Road Newmarket	Part 30, Plan 65R35145	Fee Simple

The fee simple interest required is described as all right, title and interest for the municipal purpose of implementing road and intersection improvements along Davis Drive, including associated local roads, and to provide designated lanes for the vivaNext transit system and works ancillary thereto.

## 2. Purpose

This report seeks Council approval to serve an offer of compensation under section 25 of the *Act* to the owner whose land has been expropriated for the Davis Drive project between Yonge Street and Alexander Road in the Town of Newmarket. The location of the property that is the subject of this report is shown on the map in Attachment 1.

## 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 of the Environmental Assessment Report from the Ministry of the Environment in 2005.

The new viva rapidway along Davis Drive is approximately 70% complete and is expected to be completed in December 2015

Construction of the new viva rapidway along Davis Drive began in May 2012, and runs for 2.6 kilometres from Yonge Street to just past the Southlake Regional Health Centre.

The Davis Drive rapidway is approximately 70% 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 to Highway 404, a distance of 2.3 kilometres.

Possession of lands was obtained for 133 property requirements via expropriation in 2009 on Davis Drive, from Yonge Street to Alexander Road in Newmarket

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 in late 2009 and construction has proceeded with anticipated completion of the bus rapid transit centre lanes in December 2015. To date, full and final settlements have been reached with 57 property owners, and partial settlements have been reached with 42 owners. The partial settlements are subject to future potential claims from former owners for matters not agreed to when the settlement was negotiated. The remaining 34 properties for which no full or partial settlements have been obtained, are also subject to future claims from former owners.

A portion of 175 Deerfield Road in Newmarket was recently identified as a requirement for the Parkside Drive realignment

Parkside Drive is a local municipal road that is owned by the Town of Newmarket. As part of the Davis Drive project, Parkside Drive was realigned to the east of its former location. As the design of the corridor progressed, the portion of 175 Deerfield Road that is the subject of this report was recently identified as a requirement for the new alignment.

Council authorized the expropriation of land at 175 Deerfield Road in September 2014

On September 11, 2014, Council authorized both the application for expropriation and the approval for expropriation of this additional property required for the realignment of Parkside Drive. Following Council approval, the Notice of Application for Approval to Expropriate was served upon the owner.

Upon receipt of the Notice of Application to Expropriate, the owner had the right within 30 days of receipt to request an inquiry (Hearing of Necessity) as to whether the taking of the lands by the Region is fair, sound and reasonably necessary. The owner of 175 Deerfield Road did not request a Hearing. Subsequently, the expropriation plan was registered and Notice of Expropriation served upon the owner.

Expropriation is necessary to ensure the construction schedule is not compromised

It is necessary to continue with the expropriation process in order to secure ownership of the lands and meet the construction schedule for the completion of the realignment of Parkside Drive which is currently underway.

The Region acquired title to the land when the expropriation plan was registered on December 2, 2014. The *Act* requires the Region to serve offers of compensation within three months of registration of the plan. These offers are based on appraisals of market value and other damages if applicable.

#### 4. Analysis and Options

An independent appraisal report has established the values which form the basis of the offer

An independent consultant was commissioned to provide an estimate of compensation including an appraisal of market value for the lands expropriated, and, if applicable, estimate of damages for lost improvements (such as landscaping or parking) and injurious affection (loss in value to the lands retained by the owner). Section 25 of the *Act* requires the Region to offer each owner a choice of two options regarding compensation. The first offer is an offer of full compensation for the market value of the lands expropriated and any damages for lost improvements and injurious affection. If the owner accepts the offer, then the owner, with a few exceptions, accepts the offer in full satisfaction of any claims the owner may have with respect to the expropriation. The second offer is an offer to pay the owner the market value of the lands expropriated and does not include an offer to pay any other damages such as damages for lost improvements or injurious affection. If an owner accepts the second offer the owner may make a future claim for additional compensation in accordance with the *Act*.

Possession of expropriated lands will be obtained upon serving offers

The Region acquired title to the lands when the expropriation plan was registered at the Land Registry Office. Although ownership is now in the name of the Region, possession is yet to be obtained. In accordance with the *Act*, notices of expropriation and possession were served upon the owner, with possession anticipated for March of 2015. In accordance with the *Act*, it is necessary to make offers of compensation to owners in order to obtain possession of the expropriated lands.

In the event an owner does not agree to a full and final settlement upon receipt of the offer made under Section 25 of the *Act*, staff will endeavour to negotiate compensation settlements.

Environmental due diligence was completed for the subject property

As part of its due diligence in acquiring the subject property, a Phase I Environmental Site Assessment was completed. The report from the Phase I study indicated no concerns, and no further action was required with respect to environmental matters associated with the property.

Link to key Council-approved plans

**From Vision to Results: 2011 to 2015 Strategic Plan**

Priority Area – Focus Growth along Regional Centres and Corridors

Optimize the transportation capacity and services in Regional Centres and Corridors

The acquisition of the lands will assist the Region in meeting its transportation needs.

5. Financial Implications

The budget to complete the property acquisitions is included in the 2015 YRRTC Capital Budget. The project is funded by the Province, via the Metrolinx Master Agreement.

Under section 25 of the *Act*, the Region is obligated to serve offers of compensation on owners within three months of registration of the expropriation plan. The compensation payable to the owners is based on independently commissioned appraisals.

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

7. Conclusion

Possession for the majority of lands required for construction of the bus rapid transit corridor on Davis Drive in Newmarket was obtained in 2009. As construction along the corridor progressed, an additional land requirement was identified in order to facilitate the realignment of Parkside Drive.

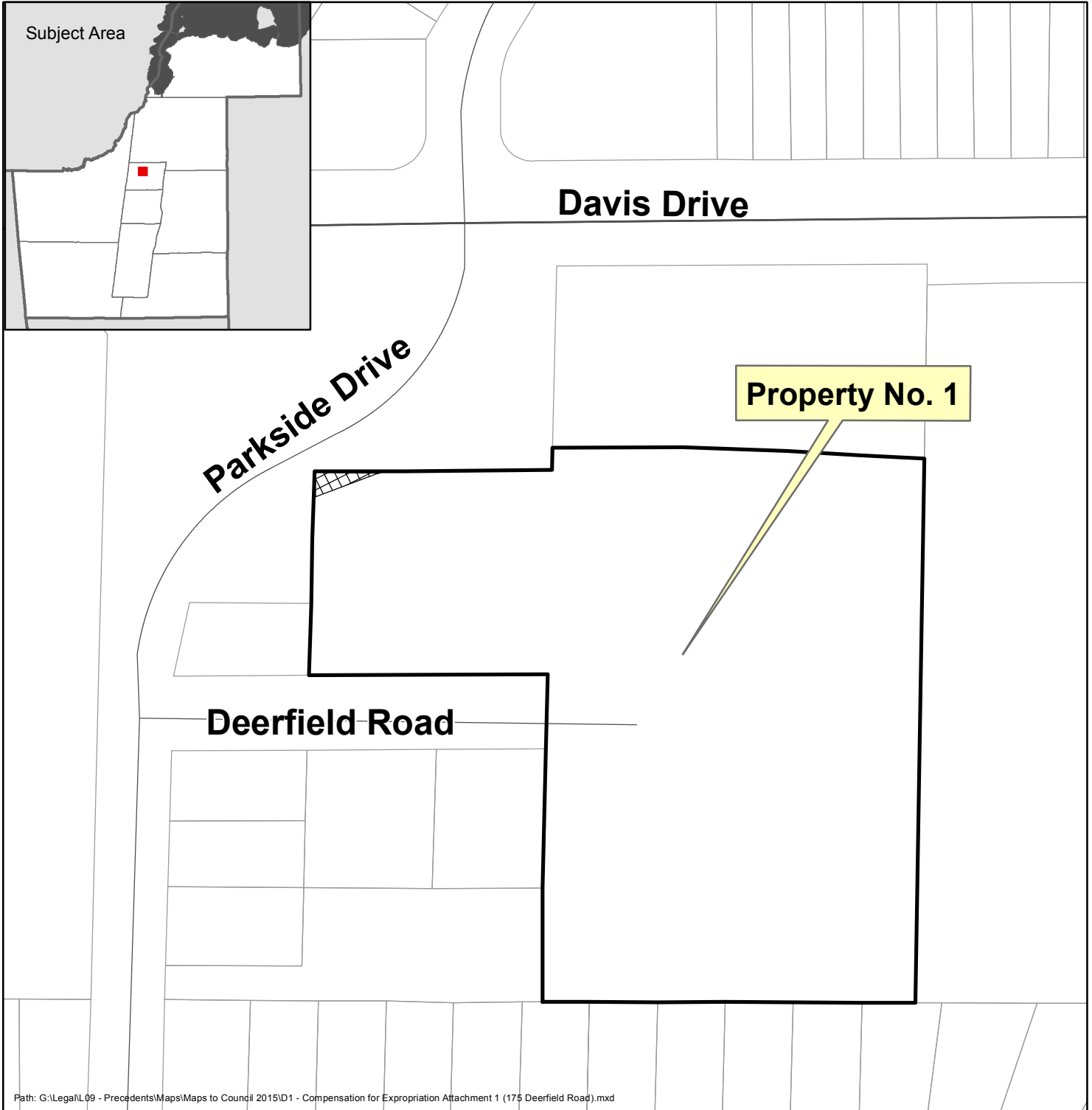
On December 2, 2014, an expropriation plan was registered with respect to the requirement of a portion of the subject property, for the realignment of Parkside Drive as part of the Davis Drive project. The *Act* requires that offers of compensation for expropriated lands be served on the former owners in order to obtain possession. The proposed offer is based on an estimate provided by an independently commissioned appraiser. It is recommended that the offer set out in this report be served in accordance with the *Act*.

For more information on this report, please contact René Masad, Director, Property Services Branch at ext. 71684.

The Senior Management Group has reviewed this report.

Attachments (1)

Accessible formats or communication supports are available upon request



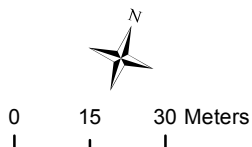
Path: G:\Legal\09 - Precedents\Maps\Maps to Council 2015\01 - Compensation for Expropriation Attachment 1 (175 Deerfield Road).mxd

### LOCATION PLAN





Compensation for Expropriation  
Viva Bus Rapid Transit Corridor  
175 Deerfield Road  
Town of Newmarket



Produced by:  
Property Services Branch  
Corporate Services Department  
© Copyright, The Regional Municipality of York, July, 2014  
© Copyright, First Base Solutions Inc. 2013 Orthophotography  
\* Includes © Queen's Printer for Ontario 2003-2014



### Legend

-  Interest Required
-  Subject Property
-  Parcel
-  Road