



Report of the Commissioner of Corporate Services
Expropriation Settlement 200 Davis Drive Town of Newmarket

1. Recommendations

1. Council authorize the settlement of all claims pursuant to the Expropriations Act related to the property identified in Appendix A, known as 200 Davis Drive, related to the construction of the vivaNext 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.

2. Purpose

This report seeks Council approval to complete a final settlement with the owner of 200 Davis Drive. The agreement includes the transfer of 180 Davis Drive in the Town of Newmarket to the owner of 200 Davis Drive. Both 180 Davis Drive and 200 Davis Drive are shown on the map in Appendix A.

Private Attachment 1 to this report will be considered in private session pursuant to section 239(2)(c) of the *Municipal Act*, 2001, because it relates to an expropriation settlement of the claims under the Expropriation Act.

Key Points

- A partial taking from 200 Davis Drive was expropriated for road widening for the vivaNext project in Newmarket
- To facilitate realignment of Parkside Drive, the Region expropriated 180 Davis Drive in its entirety
- A portion of 180 Davis Drive was incorporated into the Parkside Drive realignment, and in [June 2015](#) Council approved of the disposition of the remainder of the property

- As a result of expropriation for the vivaNext project, 200 Davis Drive lost a significant amount of parking and direct access to Davis Drive
- The Region and the owner of 200 Davis Drive entered into a License Agreement to provide additional parking and access at 180 Davis Drive to mitigate lost parking at 200 Davis Drive
- It was determined that egress and ingress via 180 Davis Drive was essential to 200 Davis Drive and without this ability, 200 Davis Drive would have substantial claims to damages, and most likely would need to be bought out completely
- To offset damages brought about by the expropriation, 180 Davis Drive will be transferred to the owner of 200 Davis Drive

3. Background

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 bus lanes for Viva buses, with enhanced streetscape on Davis Drive from Yonge Street to Alexander Road in Newmarket. Following approval from the Ministry of the Environment, construction of the new rapid way began with utility relocations in May 2009. Road construction commenced in May 2011 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 on Davis Drive. All lands required to facilitate the project were obtained through negotiated agreements and expropriation, with most lands acquired via expropriation.

The subject lands were obtained by expropriation

The property at 200 Davis Drive is a two-story retail/office building located on the south side of Davis Drive, east of Parkside Drive. In [October 2009](#), [October 2012](#) and [May 2014](#), Council approved the expropriation of the interests required to facilitate the project, including temporary easement extensions in 2012 and 2014. Appraisals were prepared and used to make offers of compensation under section 25 of the *Expropriations Act* (the “Act”) for all requirements.

The property at 180 Davis Drive included two commercial buildings, located on the southeast corner of Davis Drive and Parkside Drive. In [October 2009](#), Council approved the full buyout of the property via expropriation. A full buyout was necessary to accommodate the realignment of Parkside Drive. The buildings were demolished, and the Region retained the remainder of 180 Davis Drive upon completion of the realignment.

The property became part of the Region's surplus lands disposition program on Davis Drive. 180 Davis Drive was one of approximately 17 properties fully bought out by the Region for the vivaNext project. All proceeds from the Region's surplus lands disposition program on Davis are returned to Metrolinx, who funded all property purchases. Rather than dispose of the surplus portion of 180 Davis Drive on the open market, the Region will transfer the land to the owner of the adjacent property at 200 Davis Drive to offset a property claim from the owner.

The project impacted access and parking at 200 Davis Drive

The portion of 180 Davis Drive not required for the vivaNext project was converted into a parking lot with egress and ingress onto the new Parkside Drive. It was determined that the Parkside Drive access was essential to 200 Davis Drive and without this ability, the owner of 200 Davis Drive would have substantial claims to damages. It may have been necessary to buy out the entire property. In 2011, the Region entered into a Licence Agreement with the owner of 200 Davis Drive granting the right to use the parking lot at 180 Davis Drive and to provide access onto Parkside Drive.

The owner of 200 Davis Drive made claims for compensation after the 2009 expropriation

The owner of 200 Davis Drive is entitled to make a claim for compensation pursuant to the *Act* and made a claim for damages which resulted from permanent parking loss and the loss of egress and ingress onto Davis Drive. Appraisal reports related to the expropriations formed the basis of the Region's position during negotiations.

4. Analysis

A settlement has been negotiated that includes the transfer of 180 Davis Drive to the owner of 200 Davis Drive

The Region and the owner agreed to a settlement of all expropriations, which includes market value, disturbance damages, interest and other costs that are to be reimbursed in accordance with the *Act*. The settlement also includes the transfer of 180 Davis Drive to the owner of 200 Davis Drive. The land at 180 Davis Drive will be transferred to the owner of 200 Davis Drive on an "as is, where is" basis.

The transfer of 180 Davis Drive mitigates potential damages to the owner from the lost parking, loss of direct access and offsets the negotiated market value and lost landscaping. In addition to the transfer of 180 Davis Drive to the owner, financial compensation will be paid for disturbance damages caused during construction.

The negotiated full and final settlement is in the best interest of the Region and will avoid further claims. It is a fair and reasonable compensation based on the potential damages that could have

been claimed had this resolution not been agreed upon. At the completion of this agreement, the Region will not incur any further legal and litigation expenses with respect to this settlement.

This is the final settlement required for the Davis Drive vivaNext expropriation.

Environmental due diligence has been completed

Environmental due diligence was completed on both 180 and 200 Davis Drive for the Region's interests in the land through Phase I Environmental Site Assessments and, where required, Phase II Environmental Site Assessments. The results were reviewed by staff in consultation with Legal Services. Based on the findings, no significant environmental issues were identified that required further environmental investigation or related work.

5. Financial Considerations

The funding to complete this property settlement is included in the Property Services Capital Budget. The project is funded by the Province, via the Metrolinx Master Agreement between the Region, YRRTC and Metrolinx. This settlement has been approved by Metrolinx under the terms of the Master Agreement.

6. Local Impact

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

7. Conclusion

The Region expropriated lands from 200 Davis Drive in the Town of Newmarket, for the vivaNext project. The Region also expropriated 180 Davis Drive in its entirety for the realignment of Parkside Drive. The Region has reached a final settlement with the owner of 200 Davis Drive for all expropriation claims. The negotiated settlement includes the transfer of 180 Davis Drive to the owner of 200 Davis Drive.

This settlement eliminates any further financial exposure from the owner for impacts caused during construction. It is recommended that Council authorize the expropriation settlement described in this report to settle all claims with the owner of 200 Davis Drive.

For more information on this report, please contact Michael Shatil, Director, Property Services at 1-877-464-9675 ext. 71684. Accessible formats or communication supports are available upon request.



Recommended by:

Dino Basso

Commissioner of Corporate Services



Approved for Submission:

Erin Mahoney

Chief Administrative Officer

September 29, 2023

#14277547

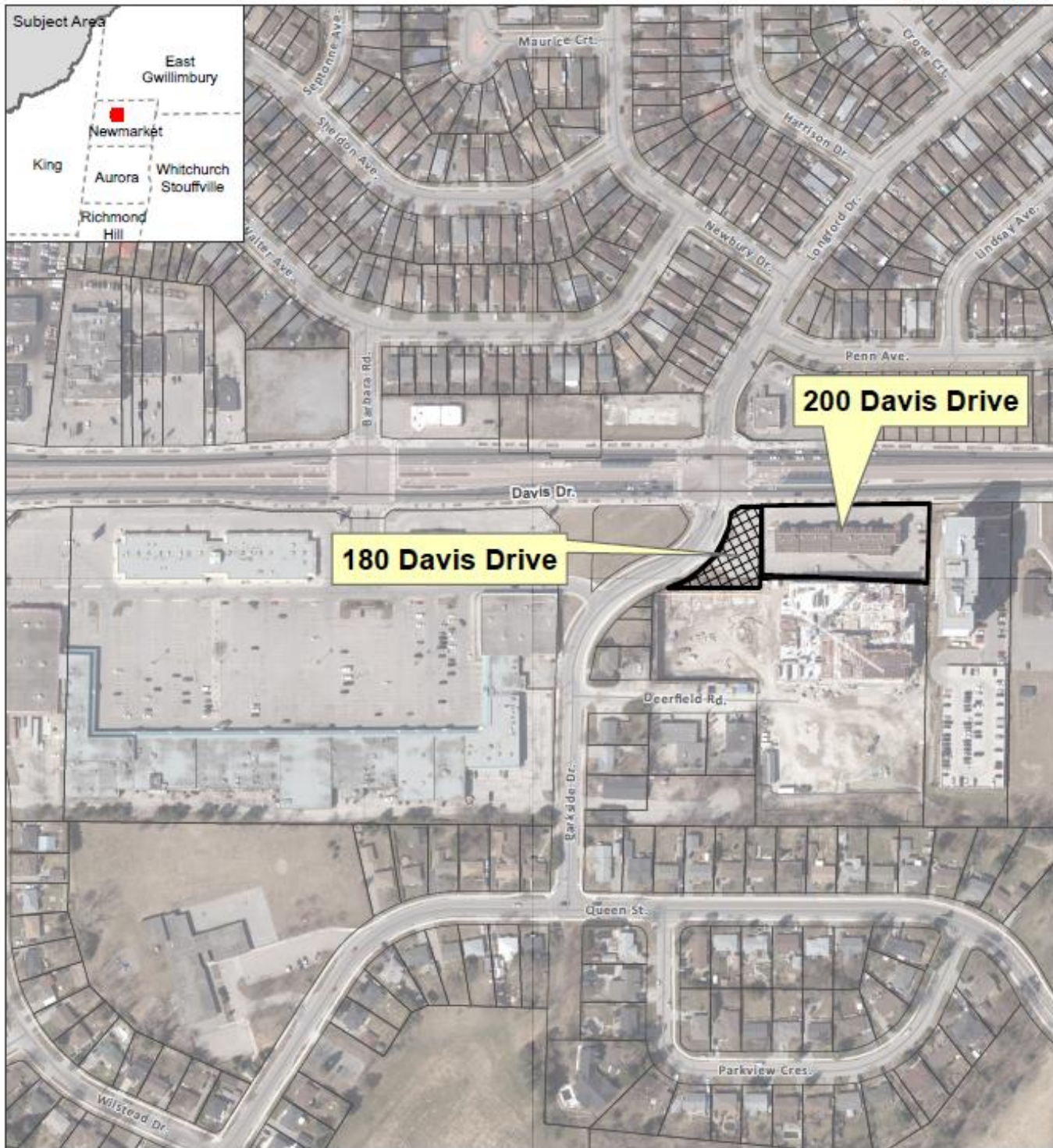
Appendix A – Property Schedule and Location Map

Private Attachment 1 – Proposed Compensation (#14277575)

**Property Schedule
Expropriation Settlement
200 Davis Drive
Town of Newmarket**

Owner	Municipal Address	Legal Description	Interest Required
YORK REGION CONDOMINIUM CORPORATION NO. 698	200 Davis Drive	Part 1, Plan YR1370041	Fee Simple (634.6 sq. m)
		Part 2, Plan YR1370041	Permanent Easement (249.2 sq. m.)
		Part 3, Plan YR1370041	Temporary Easement (246.1 sq. m.)
		Part 1, Plan YR1888794	Temporary Easement (246.1 sq. m.)
		Part 1, Plan YR2095090	Temporary Easement (246.1 sq. m.)

LOCATION MAP



 <p>Produced by: The Regional Municipality of York Property Services, Corporate Services August 2023</p> <p>Data: King's Printer for Ontario 2003-2023</p> <p>Imagery: © First Base Solutions Inc. 2021 See York.ca for disclaimer information.</p>	<p>Location Plan Expropriation Settlement 200 Davis Drive Town of Newmarket October 12, 2023</p> 	<ul style="list-style-type: none">  Subject Property  Disposition Land  Parcel  Road
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