



Report of the Commissioner of Corporate Services
**Expropriation Settlement Viva Bus Rapid Transit Corridor 20 Davis Drive
Town of Newmarket**

1. Recommendations

1. Council authorize the settlement of all claims pursuant to the *Expropriations Act* with the easement owner in respect of the expropriation of land from 20 Davis Drive, related to constructing the vivaNext Bus Rapid Transit corridor on Yonge Street, in the Town of Newmarket.
2. Commissioner of Corporate Services be authorized to execute the Minutes of Settlement and all necessary documentation to complete the transaction.

2. Purpose

This report seeks Council approval to complete a full and final settlement regarding expropriation claims made by the easement owner for expropriation of lands located at 20 Davis Drive in Newmarket for the vivaNext Bus Rapid Transit project. Property location is shown 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 the acquisition of land by the Region.

Key Points:

- 20 Davis Drive is located at the southeast corner of Yonge Street and Davis Drive
- A plaza known as “York Town Square” is located at 20 Davis Drive and 50 Davis Drive, which are owned by two separate, unrelated corporations, although the plaza appears as a single property
- The property owners of 20 Davis Drive and 50 Davis Drive have easements over the entirety of each other’s lands for access and parking

- In 2013, permanent and temporary easements along Yonge Street were expropriated from 20 Davis Drive, and the temporary easement was extended via expropriation in 2016
- The expropriations impacted the access and parking easement over 20 Davis Drive
- The Region settled the expropriation claim made by the owner of 20 Davis Drive, Loblaw Properties Limited
- An easement owner and a fee simple owner have the same rights for compensation under the *Expropriations Act*
- The owner of 50 Davis Drive (Monashee Holdings Ltd. and Timeoso Inc.) made a claim for business loss resulting from the expropriation of its easement at 20 Davis Drive
- Proposed settlement protects the Region from any additional claims by Monashee/Timeoso in respect to this expropriation

3. Background

The Region constructed dedicated bus rapid transit lanes for the vivaNext project along Yonge Street in Newmarket to facilitate public transit. York Region Rapid Transit Corporation (YRRTC), on behalf of the Region, constructed dedicated bus lanes for Viva buses with enhanced streetscaping along Yonge Street. Construction of the project on this corridor was completed in December 2018.

Requirements were identified to complete the project and steps were taken to obtain land

The Region identified land requirements from 36 property owners along Yonge Street from Sawmill Valley Drive/Savage Road to Davis Drive in Newmarket. Land required to facilitate the project was obtained through negotiated agreements, expropriation and dedication through Regional site plan approvals, with most land acquired via expropriation.

York Town Square is composed of two separately owned properties that share mutual access easements

York Town Square is a commercial and retail plaza located at the southeast corner of the intersection of Yonge Street and Davis Drive in Newmarket. The plaza is at 20 Davis Drive and 50 Davis Drive, and each address is owned by a separate owner. The property at 20 Davis Drive is owned by Loblaw Properties Limited (“Loblaw”) and is occupied by four tenants. 50 Davis Drive is owned by Monashee Holdings Ltd. and Timeoso Inc. (“Monashee/Timeoso”) and is occupied by 24 tenants, being two larger anchor units, 13 small units, and nine rear units.

Loblaw and Monashee/Timeoso have mutual easements allowing vehicular traffic to access all businesses in the plaza from both Yonge Street and Davis Drive.

Settlement with the property owner of 20 Davis has been paid in full

In 2013 and 2016, the Region expropriated easements from Loblaw to facilitate construction along Yonge Street. Monashee/Timeoso's access easement is located within the expropriated lands.

In 2018, the Region and Loblaw agreed to a full and final settlement. Monashee/Timeoso made business loss claims related to expropriation of part of its access easement on the Loblaw property.

4. Analysis

Construction impacted business between 2013 and 2018

Monashee/Timeoso claimed that during construction, lane reductions along Yonge Street and reduced access to the area resulted in lost revenue to the numerous shops and services at the site. Its primary retail unit of over 80,000 square feet was vacated before construction and was only fully occupied once construction was complete. Due to this long-term vacancy and other lost rents from the smaller tenants, Monashee/Timeoso made a claim for business loss and other costs associated with stabilizing occupancy in the plaza.

Two mediations were completed with the Ontario Land Tribunal; the first in 2019 which did not result in an agreement between the parties, and a second in September 2024 which resulted in this settlement agreement.

The proposed settlement resolves all matters associated with this expropriation.

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

The negotiated full and final settlement is in the Region's best interest and will avoid continued interest accrual in accordance with the *Act*. Upon completion of this agreement, the Region will not incur any further legal and litigation expenses related to the expropriation from Monashee/Timeoso.

5. Financial Considerations

This report does not present current or anticipated financial changes to the Region's budget or fiscal position. The vivaNext project is funded by the Province via the Metrolinx Master Agreement between the Region, YRRTC and Metrolinx. The cost and funding for the settlement are included in the Property Services 2024 Capital Budget.

This settlement is subject to approval by Metrolinx, which was obtained on October 30, 2024.

6. Local Impact

Construction of dedicated bus lanes and related facilities, as well as road and intersection improvements, is critical to achieving the Region’s vision for the project. Additionally, this project has improved public transit services and the streetscape on Davis Drive and Yonge Street, in Newmarket.

7. Conclusion

A full and final settlement of expropriation claims has been negotiated with the easement owner, Monashee/Timeoso, which represents good value to the Region.

It is recommended that Council authorize the proposed transaction described in this report to settle all claims with the easement owner at 20 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

November 15, 2024

#16369815

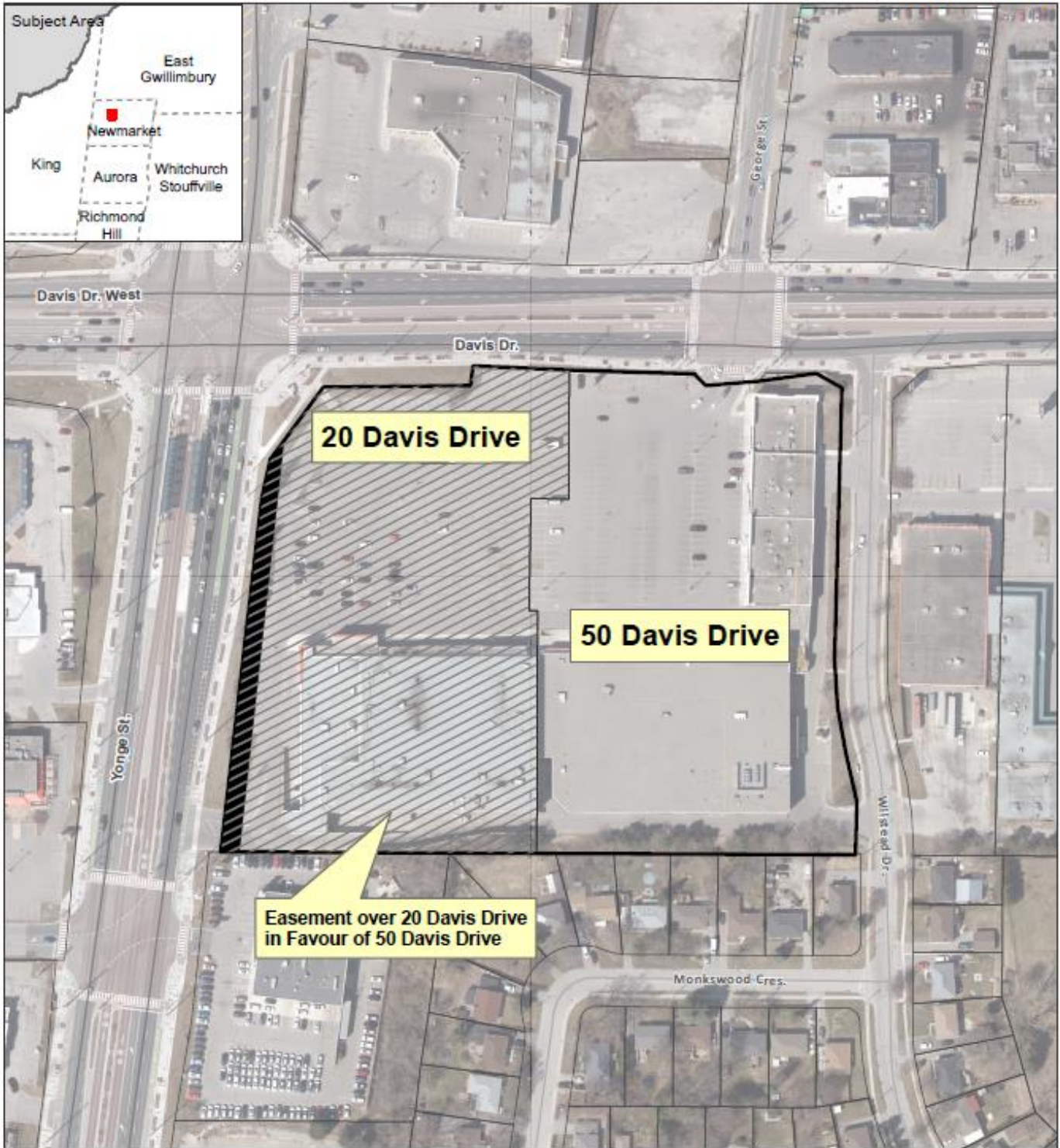
Appendix A – Property Schedule and Location Map


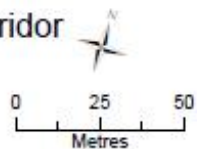





Private Attachment 1 – Proposed Compensation (#16369881)

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

No.	Easement Owner	Municipal Address	Legal Description	Interest Required
1.	Monashee Holdings Ltd. and Timeoso Inc.	20 Davis Drive Newmarket	Part 1, Plan YR2071545	Permanent Easement (116.2 sq. m.)
			Part 1, 2, 3, 4, 5 Plan YR2528787	Temporary Easements (625.5 sq. m.)
			Part 2, 3, 4 Plan YR2071545	Temporary Easements (625.4 sq. m.)

LOCATION MAP



 <p>Produced by: The Regional Municipality of York Property Services, Corporate Services October 2024</p> <p>Data: King's Printer for Ontario 2003-2024</p> <p>Imagery: © First Base Solutions Inc. 2021 <small>See York.ca for disclaimer information</small></p>	<p>Location Plan Expropriation Settlement Viva Bus Rapid Transit Corridor 20 Davis Drive Town of Newmarket December 5, 2024</p> 	<ul style="list-style-type: none">  Subject Property  Interest Acquired  Easement  Parcel  Road
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