

Clause No. 53 in Report No. 13 of the Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on September 11, 2014.

53
EXPROPRIATION OF LAND
WIDENING AND CONSTRUCTION OF BUS RAPID TRANSIT CORRIDOR
175 DEERFIELD ROAD, VIVANEXT PROJECT 90991
TOWN OF NEWMARKET

Committee of the Whole recommends adoption of the recommendations contained in the following report dated August 21, 2014 from the Acting Commissioner of Corporate Services:

1. RECOMMENDATIONS

It is recommended that:

1. Council authorize an application for approval to expropriate the following land for the construction of the bus rapid transit corridor on Davis Drive, within the Town of Newmarket:

No.	Owner	Municipal Address (YRRTC Reference)	Legal Description	Interest Required
1	Bridon Baker Developments Inc.	175 Deerfield Road (R085)	Part 30 Plan 65R-35145	Fee Simple

2. The Commissioner of Corporate Services be authorized to execute the Application for Approval to Expropriate Land and the Notice of Application for Approval to Expropriate Land (the “Notice”) and to serve and publish the Notice, as required under the *Expropriations Act* (the “Act”).
3. The Commissioner of Corporate Services be authorized to forward to the Chief Inquiry Officer any requests for an inquiry that are received and to represent the Region, as necessary, at an inquiry held under the *Act*.

4. Council, as approving authority, approve the expropriation of the land described in Recommendation 1, provided there is no inquiry (Hearing of Necessity) requested in accordance with the *Act*.
5. Approval is deemed to be given effective 31 days following the publication of the Notice of Application for Approval to Expropriate Land and a Hearing of Necessity is not requested, as aforesaid.
6. Where approval to expropriate the land is deemed to be given, the Commissioner of Corporate Services be authorized to register a plan of expropriation and execute and serve any notices required under the *Act*.
7. Where approval to expropriate the land is deemed to be given, Council authorize the enactment of the necessary bylaw to give effect to these recommendations.

2. PURPOSE

This report seeks Council approval for an application to expropriate property interests required for road and intersection improvements, in order to provide designated lanes for the Viva transit system along the Davis Drive corridor, located at 175 Deerfield Road, Newmarket (*Attachment 1*).

Under the *Act*, Council, as approving authority, must approve an application prior to the initiation of any proceedings.

Provided there is no Hearing of Necessity, this report seeks Council approval to expropriate as described in the application to expropriate.

3. BACKGROUND

The Region is undertaking improvements to the road infrastructure and the construction of dedicated lanes for vivaNext buses

To facilitate bus rapid transit along critical portions of the Highway 7, Yonge Street and Davis Drive corridors, the Region, via York Region Rapid Transit Corporation (YRRTC), is undertaking improvements to the road infrastructure and the construction of dedicated lanes for Viva buses, along with enhanced streetscaping and boulevards. The project as a whole is referred to as vivaNext.

Parkside Drive was realigned to meet the project requirements

Construction associated with vivaNext is ongoing on Davis Drive, in Newmarket, and Highway 7, in Markham. The property in question for this report is located in the Davis Drive corridor at 175 Deerfield Road. In order to implement the Rapidway on this section of the corridor, Parkside Drive in Newmarket was realigned to accommodate a vivaNext bus stop to the east and west of the road on Davis Drive. The realignment closed a partial section of the original Parkside Drive, from Davis Drive to Deerfield Road, and a new section of Parkside Drive was opened a short distance to the east.

4. ANALYSIS AND OPTIONS

York Region is responsible for the newer section of Parkside Drive

Currently the unused section of Parkside Drive is owned by the Town of Newmarket and the newer section, currently in use is owned by the Region. Ownership and responsibility for the newer section of Parkside Road lies with the owner, York Region.

Ownership and responsibility of the newer section of Parkside Drive will be transferred by the Region to the Town of Newmarket

The Region is currently responsible for the newer section of Parkside Drive until ownership is transferred to the Town of Newmarket. Discussions with the Town of Newmarket have begun to complete a land exchange. The exchange is anticipated to be a direct trade for the newer section of Parkside Drive for the older unused section. The exchange would be desirable for both parties, as the Region would no longer be responsible for the actively used road and the Town of Newmarket would receive a newer section of road.

Additional property requirement needed to complete construction and land exchange

The final design and construction of the newer section of Parkside Drive requires an additional 14.0 sq. m (150.70 sq. ft.) from the northwest corner of 175 Deerfield Road. This fee simple interest requirement is vacant land and is presently unused by the owner. The new lot line will be 0.53m (1.74 ft.) from the building located on this property. The acquisition of this interest will allow the completion of the road works and finalize transfer of this newer road portion to the Town of Newmarket as part of a land exchange.

Initiating expropriation proceedings will ensure the land is acquired

Negotiations with the current owner of the subject property have commenced. It is anticipated that negotiations will be successfully concluded for the interest required. However, given the time requirements to obtain possession via expropriation, it is

recommended the expropriation process proceed concurrently with ongoing negotiations. This will ensure that YRRTC can effectively obtain access to the interests required to complete the newer section of the road, and the Region can proceed with the land exchange. Timely possession of the required lands will reduce the risk of significant escalation costs associated with development along these corridors and the responsibilities associated with owning the newer section of the road currently in use.

The first step in the expropriation process requires Council, as approving authority, to authorize an application for approval to expropriate. Subsequently, notice may be served on owners of the subject lands. Receipt of this notice will trigger the owner's right to request a Hearing of Necessity. There is also a statutory obligation to publish the notice.

Provided there is no Hearing of Necessity this report seeks Council approval to expropriate

Upon the approval of the application for approval to expropriate, the owner will be notified and a public notice will be published as required under the *Act*. Upon publishing the Notice of Application to Expropriate, anyone requesting a Hearing of Necessity has thirty days after the publication of the notice to notify the approving authority in writing. An owner and anyone with a right, title or interest in the subject property can request a Hearing of Necessity as to whether the taking of the land by the Region is fair, sound and reasonable. If a Hearing of Necessity is requested, and a report of the Inquiry Officer is issued, the report of the Inquiry Officer should come before Council for consideration.

This report seeks Council approval to expropriate the required interest in 175 Deerfield Road if a Hearing of Necessity is not requested within the designated time frame. An expropriation plan will then be registered with the Land Registry Office. The effects of not proceeding with the expropriation will likely result in delays in the project schedule and the Region will continue to be liable for the newer section of Parkside Drive, if negotiations are not successful.

Registration of an expropriation plan will secure access to the lands and ensure that construction can proceed

Under the *Act*, registration of an expropriation plan vests lands in the expropriating authority. Subject to the Region taking certain procedural steps, the Region will obtain possession of the lands approximately three months after the registration of the plan of expropriation.

The environmental due diligence reports for this property have been reviewed by staff in consultation with Legal Services.

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 funds required to complete the property acquisitions have been included in the approved 2014 YRRTC Capital Budget. The project is funded by the Province, via the Metrolinx Master Agreement.

Under section 25 of the *Act*, the Region is obliged to serve an offer of compensation on the registered owner(s) within three months of the registration of the expropriation plan. The appraisal required to support this offer will be prepared and the proposed offer will be the subject of a further report to council.

6. LOCAL MUNICIPAL IMPACT

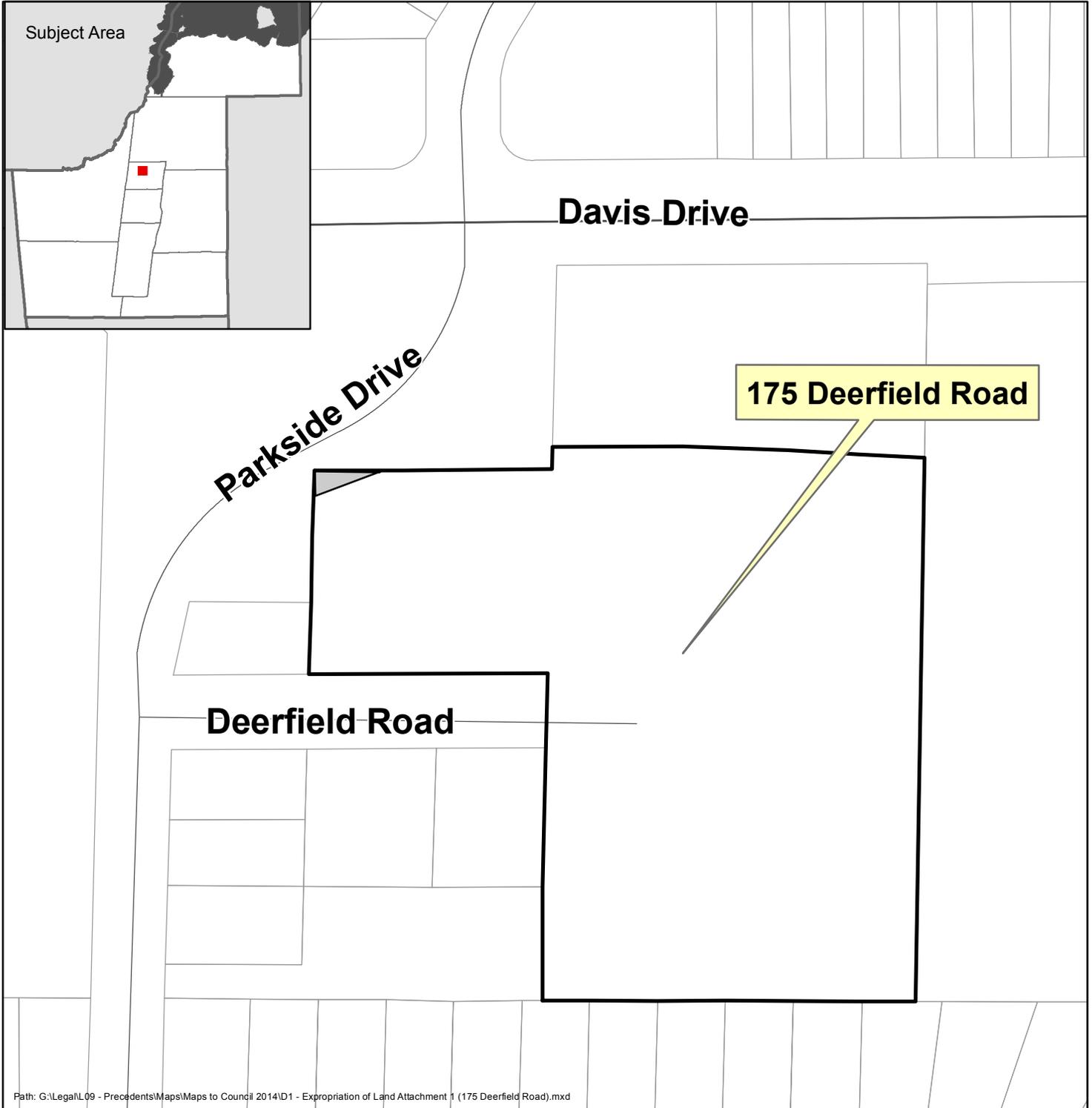
The construction of dedicated bus lanes and related facilities, as well as road and intersection improvements along Davis Drive, from Yonge Street to Alexander Road, is critical to the achievement of the vision for the corridor for both the Region and the Town of Newmarket. Additionally, this project will improve public transit facilities and enrich the streetscapes to support the Region's goal for higher density mixed use transit-oriented development.

7. CONCLUSION

This report seeks Council approval to expropriate the interest required at 175 Deerfield Road, in order to facilitate the construction of dedicated bus lanes, related facilities, road and intersection improvements. To ensure the project is not delayed, it is necessary to initiate the application for approval to expropriate and subsequently, if a Hearing of Necessity is not requested, to expropriate the subject property to secure access to the lands in a timely manner. Staff will continue to negotiate for the acquisition of the required interest and expropriation proceedings will be abandoned if negotiations are successful.

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.
Attachment (1)



Path: G:\Legal\I09 - Precedents\Maps\Maps to Council 2014\ID1 - Expropriation of Land Attachment 1 (175 Deerfield Road).mxd

LOCATION PLAN

Expropriation of Land
 Widening and Construction of Bus Rapid Transit Corridor
 175 Deerfield Road, vivaNext Project 90991
 Town of Newmarket



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 Corporate Services Department
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Legend

-  Fee Simple Interest Required
-  Subject Properties
-  Parcel
-  Road