

Region of Waterloo
Planning, Development, and Legislative Services
Legal Services

To: Planning and Works Committee
Meeting Date: June 6, 2023
Report Title: Authorization to Expropriate Lands (2nd Report) for Installation of the remaining Farmers Market Trail Works, in the City of Waterloo

1. Recommendation

That the Regional Municipality of Waterloo approve the expropriation of lands for the purpose of completing the remaining Farmers Market Trail works (Northfield Drive West from the railway corridor to the Northfield Drive / Parkside Drive intersection), in the City of Waterloo, as detailed in Report PDL-LEG-23-026 dated June 6, 2023, described as follows:

Fee Simple Partial Taking:

- i. Part of Lot 10, German Company Tract, being Parts 1, 2, 4 and 5 on 58R-21590, (Part of PIN 22281-0356 (LT)), City of Waterloo, Regional Municipality of Waterloo (580 Weber Street North, Waterloo).

Temporary Easement – Grading:

The right and easement, being a temporary easement in gross, for the free and unobstructed, right, interest and easement terminating on the 31st day of December, 2024, for itself, its successors and assigns, and anyone authorized by it, on, over, under and through the following property for the purposes of excavation, construction, installation, replacement, alteration, grading, and landscaping as required in connection with the construction and access of the multi-use trail along Northfield Drive West from the railway corridor to the Northfield Drive / Parkside Drive intersection, and all related improvements, and works ancillary thereto and for such purposes, the free, unimpeded and unobstructed access to the lands at all times by employees, agents, contractors, workers and anyone authorized by it, and vehicles, supplies and equipment at all times and for all purposes and things necessary for or incidental to the exercise and enjoyment of the right and easement:

- ii. Part of Lot 10, German Company Tract, being Part 3 on 58R-21590, (Part of PIN 22281-0356 (LT)), City of Waterloo, Regional Municipality of Waterloo (580 Weber Street North, Waterloo).

And that staff be instructed to register a Plan of Expropriation for the property within three months of the granting of the approval to expropriate the property, as required by the *Expropriations Act*;

And that the registered owners be served with a Notice of Expropriation and a Notice of Possession for the property after the registration of the Plan of Expropriation and the Regional Solicitor is authorized to take any and all actions required to enforce such Notices including but not limited to any application pursuant to Section 40 of the *Expropriations Act*;

And that the Regional Solicitor is authorized to enter into an agreement with the registered owners, or to make an application under Section 39 of the *Expropriations Act*, to adjust the date for possession specified in the Notice of Possession as may be required;

And that all above-referenced fee simple partial takings situated adjacent to an existing Regional public highway be acquired for road widening purposes and therefore be deemed to form part of the adjacent public highway in accordance with subsection 31(6) of the *Municipal Act, 2001*;

And that if no agreement as to compensation is made with an owner, the statutory Offer of Compensation and payment be served upon the registered owners of the property in the amount of the market value of the interests in the land as estimated by the Region's appraiser in accordance with the *Expropriations Act*;

And that the Regional Solicitor be authorized to execute any Indemnity agreement or other document related to payment of the statutory Offer of Compensation;

And further that the Regional Solicitor be authorized to discontinue expropriation proceedings or any part thereof, in respect of the above described lands, or any part thereof, upon the registration on title of the required documentation to complete the transaction or if determined by the Commissioner, Transportation Services, that such lands, or any part or interest thereof, are not required for the subject Project

2. Purpose / Issue:

Council approval of the expropriation is sought to: (i) permit registration of the Plan of Expropriation in the Summer/Fall of 2023, and (ii) provide possession of the required lands and interests in the Fall/Winter of 2023, to facilitate the commencement of the works in early 2024.

3. Strategic Plan:

The Farmers Market Trail project supports Strategic Focus Area 2 (Sustainable Transportation) and, specifically, Strategic Objective 2.3: to increase participation in active forms of transportation (cycling and walking).

4. Report Highlights:

a) Project Overview

The trail serves as a high quality active transportation connection between Farmers Market Road in the Township of Woolwich, and the Research and Technology ION Station in the City of Waterloo (connecting to the existing Laurel Trail), with the potential

to: (i) improve high-frequency transit access for residents and workplaces near the corridor; (ii) increase ridership outside of traditional peak periods; (iii) mitigate traffic concerns and travel/parking demand on market days; (iv) realign the Trans-Canada Trail route to make it easier to navigate; and (v) foster local tourism.

b) Project Timing

Construction of the trail is proceeding in two (2) stages. Stage 1 consists of the trail section along the railway line between Northfield Drive and Farmers Market Road; which work was completed in 2021, and opened to the public in 2022. Stage 2 consists of the trail section between the intersection of Northfield Drive and Parkside Drive and the railway line (behind the Fire Hall). The property that is the subject of this Report is required for Stage 2; which work is scheduled to commence in early 2024.

c) Impacted Properties

The installation of the trail directly impacts two (2) properties. A map of the impacted property that is the subject of this Report is attached hereto as Appendix "A". The Region will acquire a fee simple interest and temporary easement from the subject property for construction / connection of the trail, and associated works, from the railway corridor to the Northfield Drive / Parkside Drive intersection. Regional staff has already acquired an easement interest from the second impacted property, thus avoiding the need to expropriate.

5. Background:

Council approved the commencement of expropriation of the subject property on February 7th, 2023 as detailed in Report PDL-LEG-23-006. The appropriate forms under the Expropriations Act (the "Act") were served on or about April 14, 2023, in order to initiate formal proceedings under the Act for the subject property.

A Hearing of Necessity was not requested within the statutory timeframe by the impacted property owner in connection with this expropriation process.

6. Communication and Engagement with Area Municipalities and the Public

Area Municipalities:

The City of Waterloo has been advised that this expropriation is moving forward to complete the connection between the railway corridor and the Northfield Drive / Parkside Drive intersection. City staff is supportive of completing the connection of the trail.

Public:

The affected property owner was previously contacted by Legal Services staff and informed of the project as well as the Region's intention to commence the expropriation process, and the Region's Expropriation Information Sheet was provided to them. Legal Services staff contacted the property owner and informed them of the Region's intention to continue with the expropriation process in order to ensure that the construction timeline is maintained, including this Report being presented to Council, as detailed in the Region's Expropriation Information Sheet.

Legal Services staff is willing to negotiate the property acquisition with the property owner in an effort to achieve settlements of their claims under the Act.

7. Financial Implications:

The Region's approved 2023-2032 Public Transit Capital Program includes a budget of \$415,000 in 2023 for the Farmers Market Northfield Station Trail (project # 66125), to be funded from the Investing in Canada Infrastructure Program (73%, \$302,900), the Transit Capital Reserve (16%, \$66,400) and the Transit Regional Development Charges Reserve Fund (11%, \$45,700). This funding is sufficient to cover associated costs.

8. Conclusion / Next Steps:

Council approval of the expropriation is required to advance this project within the noted timelines.

The by-law to approve the expropriation of the subject property will be presented to Council at its meeting on June 21, 2023, to be passed upon Council approval of the expropriation.

Upon Council approval of the expropriation of the subject property, such approval will be endorsed upon a certificate of approval that will be registered on title and upon an expropriation certificate on the Plan of Expropriation for the said property if not acquired under agreement. The Plan will then be registered within three months of the approval. Ownership of the property vests with the Region upon the registration of the Plan. Notices of Expropriation and Notices of Possession are then served upon the registered owner, including tenants as shown on the assessment roll. The Region will take possession of the required lands at least 3 months after service of the Notice of Possession.

After the registration of the Plan of Expropriation and prior to the taking of possession of the property, the expropriating authority is required to serve the registered owner with an offer in full compensation for their interests in the land. The offer must be accompanied by the immediate payment of one hundred percent (100%) of the appraised market value of the land to the registered owner as estimated by the Region's appraiser. The registered owner is also to be served with a report appraising the market

value of the property, which report formed the basis for the offer of compensation.

9. Attachments:

A list of the corporate owner of the fee simple interest in the subject lands is attached as Appendix "B". Regional staff have conducted corporate profile searches of the affected corporate property owner and the directors and officers are listed. This list does not include tenants, easement holders or holders of security interests in the subject lands.

Appendix A: Map of the Subject Lands

Appendix B: Corporate Profile of Corporate Owner

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