

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 Construction of a Roundabout at the Intersection of Cedar Creek Road and Trussler Road, in the Township of North Dumfries, and County Road No. 8, in the County of Oxford

1. Recommendation

That the Regional Municipality of Waterloo approve the expropriation of lands for improvements at the intersection of Cedar Creek Road (Regional Road No. 97) and Trussler Road (Regional Road No. 70), in the Township of North Dumfries, in the Regional Municipality of Waterloo, and County Road No. 8, in the County of Oxford as detailed in Report PDL-LEG-23-027, dated June 6, 2023, described as follows:

Fee Simple Partial Taking:

- I. Part of Lot 1, Concession 13, being Parts 2 and 4 on 41R-10418, (Part of PIN 00297-0021 (LT)), Township of Blandford-Blenheim, County of Oxford (3541 Trussler Road, Blandford-Blenheim);
- II. Part of Lot 1, Concession 12, being Part 5 on 41R-10418, (Part of PIN 00296-0025 (LT)), Township of Blandford-Blenheim, County of Oxford (927762 Oxford Road 8, Blandford-Blenheim);
- III. Part of Lot 38, Concession 11, being Parts 1 and 2 on 58R-21584, (Part of PIN 03847-0461 (LT)), Township of North Dumfries, Regional Municipality of Waterloo (3434 Trussler Road, North Dumfries);
- IV. Part of Lot 38, Concession 10, being Part 3 on 58R-21584, (Part of PIN 03850-0282 (LT)), Township of North Dumfries, Regional Municipality of Waterloo (3704 Trussler Road, North Dumfries);

Temporary Easement – Grading:

The right and easement, being a temporary easement in gross, for the free and unobstructed, right, interest and easement terminating, for the subject property set out below, 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 improvements at the intersection of Cedar Creek Road, Trussler Road and County Road No. 8, 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:

- I. Part of Lot 1, Concession 13, being Parts 1 and 3 on 41R-10418, (Part of PIN 00297-0021 (LT)), Township of Blandford-Blenheim, County of Oxford (3541 Trussler Road, Blandford-Blenheim);

And that staff be instructed to register a Plan of Expropriation for the properties within three months of the granting of the approval to expropriate the properties, 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 properties 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 properties 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, Engineering & Environmental 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.

3. Strategic Plan:

This Project supports the 2019-2023 Corporate Strategic Plan under Strategic Focus Area 2 (Sustainable Transportation) and, more specifically, Strategic Objective 2.4 “Improve road safety for all users – drivers, cyclists, pedestrians, horses and buggies.”

4. Report Highlights:

a) Project Overview

The proposed improvements at the intersection of Cedar Creek Road and Trussler Road, Township of North Dumfries, and County Road No. 8, County of Oxford, will improve road safety and reduce delays to motorists.

The scope of work to be completed includes the following:

- Construction of a single lane roundabout, including designated pedestrian crossings therein; and
- Reconfiguration of existing drainage for the road.

The recommended roundabout would replace temporary traffic signals that were installed as an interim measure. The main issues raised by the public and adjacent property owners, and addressed within the proposed improvements, are: passage of large agricultural equipment; volume of commercial truck traffic; and, cost and impacts of construction of a roundabout. The roundabout, including the entrance and exit thereof, would be designed geometrically to accommodate all identified users. The Region has constructed other roundabouts in rural settings (recently at Hergott Road and Ament Line) where agricultural equipment, commercial trucks, and horse and buggies frequently use the roundabout with no concerns.

b) Project Timing

Early works, including utility relocations, are scheduled to commence in Fall 2023. Road construction is scheduled to commence in 2024.

c) Properties Impacted

The implementation of the recommended improvements directly impacts four (4) properties. A map of the impacted properties is attached as Appendix “A”. Land

acquisitions are required from all four (4) of the properties to accommodate the said improvements. These acquisitions include fee simple partial takings from all four (4) of the properties and a temporary easement from one (1) property for grading purposes. Two (2) of the impacted properties are within the boundaries of the County of Oxford.

It should be noted the expropriation of the lands is on an “as is” basis and, upon acquisition, the Region assumes all responsibility for the lands.

5. Background:

Council approved the commencement of expropriation of the subject properties on March 22nd, 2023 as detailed in Report PDL-LEG-23-011. The appropriate forms under the Expropriations Act (the “Act”) were served on or about April 21, 2023, in order to initiate formal proceedings under the Act for the subject properties.

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

6. Communication and Engagement with Area Municipalities and the Public:

Area Municipalities:

A meeting was held with North Dumfries Township staff and the Region of Waterloo Project Manager to review the scope and timing of the project. North Dumfries Township staff were in favour of the roundabout.

Meetings have been held with Oxford County staff to review the scope and timing of the project. Oxford County also conducted Public Consultation on their own website. Oxford County’s website provided a link that directed the public to the Region of Waterloo Engage website for an opportunity to complete a survey.

Regional staff has provided updates to staff of North Dumfries Township and Oxford County that the Region of Waterloo is proceeding with expropriating the lands required for construction of this project.

Public:

The affected property owners were 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 owners 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

owners in an effort to achieve settlements of their claims under the Act.

7. Financial Implications:

The Region's approved 2023-2032 Transportation Capital Program includes a budget of \$350,700 in 2023 and \$1,117,500 in 2024-2025 for the Trussler Road at Cedar Creek Road (Project #07612) to be funded from the Roads Regional Development Charges Reserve Fund. There is sufficient budget to accommodate expropriation costs. As this is a boundary road, Oxford County will share the costs 50/50 with the Region. Oxford County staff have indicated that there is sufficient budget and would like the Region to proceed with the project.

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 lands 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 properties, 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 properties if not acquired under agreement. The Plan will then be registered within three months of the approval. Ownership of the properties vests with the Region upon the registration of the Plan. Notices of Expropriation and Notices of Possession are then served upon the registered owners, 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 properties, the expropriating authority is required to serve the registered owners 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 owners as estimated by the Region's appraiser. The registered owners are also to be served with a report appraising the market value of the properties, which reports formed the basis for the offer of compensation.

9. Attachments:

A list of the corporate owners of the fee simple interest in the subject lands is attached as Appendix "B". Regional staff have conducted corporate profile searches of 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 Owners

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Andy Gazzola, Solicitor (Property)

Reviewed By: Erin Gray, Financial Analyst

Approved By: Fiona McCrea, Acting Regional Solicitor and Director of Legal Services