

**Region of Waterloo**

**Planning, Development, and Legislative Services**

**Legal Services**

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**To:** Planning and Works Committee

**Meeting Date:** August 15, 2023

**Report Title:** Authorization to Expropriate Lands (1<sup>st</sup> Report) for the construction of a roundabout at the intersection of New Dundee Road (Regional Road No. 12) and Robert Ferrie Drive, in the City of Kitchener

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**1. Recommendation**

That the Regional Municipality of Waterloo direct and authorize the Regional Solicitor to take the following actions with respect to the expropriation of lands for the construction of a roundabout at New Dundee Road (Regional Road No. 12) and Robert Ferrie Drive, City of Kitchener, in the Regional Municipality of Waterloo, as detailed in report PDL-LEG-23-039, dated August 15, 2023.

1. Complete application(s) to the Council of The Regional Municipality of Waterloo, as may be required from time to time, for approval to expropriate land, which is required for the construction of improvements at the intersection of New Dundee Road (Regional Road No. 12) and Robert Ferrie Drive, in the City of Kitchener and described as follows:

**Fee Simple Partial Taking:**

- I. Part of Lot 1, Beasley's New Survey, being Part 7 and 8 on 58R-21801, (Part of PIN 03771-0107 (LT)), City of Kitchener, Regional Municipality of Waterloo (20 Reichert Drive, Kitchener);
- II. Part of Block 111, Plan 58M-528, being Parts 1 and 2 on 58R-21801, (Part of PIN 22734-2706 (LT)), Part 1 being subject to an easement as in Instrument No. WR659521 City of Kitchener, Regional Municipality of Waterloo (628 New Dundee Road, Kitchener);

**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 31<sup>st</sup> day of December, 2026, for itself, its successors and assigns, and anyone authorized by it, on, over, under and through the following properties for the purposes of excavation, construction, installation, replacement, alteration, grading, and

landscaping as required in connection with the construction of a roundabout at New Dundee Road (Regional Road No. 12) and Robert Ferrie Drive, City of Kitchener, 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:

- III. Part of Lot 1, Beasley's New Survey, being Parts 6 and 9 on 58R-21801, (Part of PIN 03771-0107 (LT)), City of Kitchener, Regional Municipality of Waterloo (20 Reichert Drive, Kitchener);
  - IV. Part of Block 111, Plan 58M-528, being Parts 3 and 4 on 58R-21801, (Part of PIN 22734-2706 (LT)), Part 3 being subject to an easement as in Instrument No. WR659521, City of Kitchener, Regional Municipality of Waterloo (628 New Dundee Road, Kitchener);
2. Serve notices of the above applications(s) required by the Expropriations Act (the "Act");
  3. Forward to the Chief Inquiry Officer any requests for a hearing that may be received within the time prescribed by the Act;
  4. Attend, with appropriate Regional staff, at any hearing that may be scheduled;
  5. 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 a transaction whereby the required interests in the lands are conveyed or if otherwise deemed appropriate in the opinion of the Commissioner of Engineering and Environmental Services and the Regional Solicitor; and
  6. Do all things necessary and proper to be done and report thereon to Regional Council in due course.

## **2. Purpose / Issue:**

Council approval is sought herein to commence the expropriation process: (i) in compliance with the requirements of the Act, and (ii) in furtherance of the project timeline by expropriating the required lands and interests.

## **3. Strategic Plan:**

This Project (as hereinafter defined) supports the 2019-2023 Corporate Strategic Plan under Strategic Focus Area 2 (Sustainable Transportation) and, more specifically,

Strategic Objective 2.3 “Increase participation in active forms of transportation (cycling and walking)” and 2.4 “Improve road safety for all users – drivers, cyclists, pedestrians, horses and buggies.”

#### **4. Report Highlights:**

##### **a) Project Overview**

The proposed improvements to construct a roundabout at the intersection of New Dundee Road (Regional Road No. 12) and Robert Ferrie Drive, in the City of Kitchener (the “Project”), will improve road safety and reduce delays to motorists.

The scope of work to be completed includes the following:

- Construction of a double lane roundabout, including designated pedestrian crossings therein, multi-use path, paved shoulders, storm sewer installation; 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; high operating speeds on New Dundee Road; volume of commercial truck traffic; cost and impacts of roundabout construction; illumination; education for roundabout users; and Impact to Heritage lands. The roundabout will factor into providing reduced speeds as the posted speed along New Dundee Road will be reduced from 80km/h to 60km/hr between Executive Place and Reichert Drive. The proposed double lane roundabout, including the entrance and exit to the roundabout would be designed geometrically to adequately accommodate all types of large commercial vehicles. The proposed roundabout would have a lower life-cycle costs, and reduce idling times, resulting in fuel savings and reduced vehicle emissions. It also provides a gateway feature and traffic calming into the Doon South community. The historic yellow brick dwelling located at 628 New Dundee Road is listed on the City of Kitchener Heritage register. Regional work will not impact this property as the scope of work is contained to the existing right-of-way.

##### **b) Project Timing**

Project construction is scheduled to commence in 2025.

##### **c) Properties Impacted**

The implementation of the recommended improvements directly impacts three (3) properties. A map of the impacted properties is attached as Appendix “A”. Land acquisitions are required from all three (3) of the properties to accommodate the said improvements. These acquisitions include fee simple partial takings from two (2) of the properties, a permanent easement from one (1) of the properties and a temporary easement for grading from two (2) of the properties.

It is noted that one (1) of the impacted properties is owned by the City of Kitchener and, due to reciprocal expropriation powers, this property has not been included in the expropriation. Region staff have been in contact with City of Kitchener staff regarding the requirements for a permanent easement for completion of the Project and a negotiated agreement is expected.

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

## **5. Background:**

Regional Council approved the proposed construction of a roundabout at the intersection of New Dundee Road (Regional Road No. 12) and Robert Ferrie Drive, in the City of Kitchener on April 12, 2022 as outlined in Report TES-DCS-22-09.

## **6. Communication and Engagement with Area Municipalities and the Public**

**Area Municipalities:** Several meetings have been held with the City of Kitchener staff and the Region of Waterloo’s Project Manager to review the scope and timing of the project along with integration into existing City of Kitchener storm sewer infrastructure and upcoming developments within project limits.

**Public:** All of the affected property owners, or their representatives, have been contacted by Legal Services Real Estate staff by one or more of the following means: in-person meeting, telephone, written correspondence and/or e-mail to discuss the required acquisitions and have been informed of the Region’s intention to commence the expropriation process, including this Report going forward to ensure project time lines are met. All property owners have been provided with the Region’s Expropriation Information Sheet explaining the expropriation process. A copy of the Expropriation Information Sheet is attached as Appendix “B”. The owners have further been advised it is the Region’s intention to seek a negotiated settlement prior to completion of the expropriation process and that the process has been commenced only to ensure possession of the required lands by the date set by Project staff in order to keep the project timeline in place.

Should a negotiated settlement be reached with any of the property owners and a conveyance of the required acquisition be completed before the expropriation process is complete, the expropriation process with respect to such lands would be discontinued by the Regional Solicitor.

## **7. Financial Implications:**

The Region’s approved 2023-2032 Transportation Capital Program includes a budget of \$873,600 in 2023 and \$3,213,600 in 2024-2026 for New Dundee Road at Robert Ferrie Drive Roundabout (project #07284) to be funded from the Regional Roads Development

Charges Reserve Fund.

There is sufficient budget to accommodate expropriation costs.

## **8. Conclusion / Next Steps:**

Subject to Council approval, Regional staff seek authorization to commence the expropriations process in furtherance of the proposed road improvements at the intersection of New Dundee Road (Regional Road No. 17) and Robert Ferrie Drive in the City of Kitchener, to improve road safety and reduce delays to motorists.

## **9. Attachments:**

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

Appendix "A": Map of Impacted Properties Included in Expropriation

Appendix "B": Copy of Expropriation Information Sheet

Appendix "C": Corporate Profiles of Corporate Owners

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**Approved By:** Graham Walsh, Regional Solicitor and Director of Legal Services