

**Region of Waterloo**

**Planning, Development, and Legislative Services**

**Legal Services**

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**To:** Planning and Works Committee

**Meeting Date:** May 7, 2024

**Report Title:** Authorization to Expropriate Lands (1<sup>st</sup> Report) for Construction of a Roundabout at the Intersection of Fischer Hallman Road and New Dundee Road, in the City of Kitchener and in Township of North Dumfries

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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 improvements at the intersection of Fischer Hallman Road (Regional Road 50) and New Dundee Road (Regional Road 12), in the City of Kitchener and in the Township of North Dumfries, in the Regional Municipality of Waterloo, as detailed in report PDL-LEG-24-013, dated May 7, 2024.

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 improvements at the intersection of Fischer Hallman Road and New Dundee Road, and described as follows:

Fee Simple Partial Taking:

- I. Part of Lot 9, Beasley's New Survey, Township of Waterloo, being Parts 1 and 3 on 58R-21999, (Part of PIN 22723-0035), City of Kitchener (2315 Fischer Hallman Road, City of Kitchener)
- II. Part of Lot 9, Beasley's New Survey, Township of Waterloo, being Part 2 on 58R-21999, (Part of PIN 22723-0024), City of Kitchener (2258 New Dundee Road, City of Kitchener)
- III. Part of Lot 9, Beasley's New Survey, Township of Waterloo, being Part 4 on 58R-21999, (Part of PIN 22722-0015), City of Kitchener (2320 Fischer Hallman Road, City of Kitchener)
- IV. Part of Lot 42, Concession 12, being Parts 5 and 8 on 58R-21999, (Part of PIN 03847-0010), Township of North Dumfries (Southeast Quadrant of Intersection of Fischer Hallman Road and New Dundee Road, Township of North Dumfries)

- V. Part of Lot 42, Concession 12, being Part 9 on 58R-21999 and Part of the Road Allowance Between Lots 42 & 43, Concession 12, being Part 11 on 58R-21999, (Part of PIN 03847-0007), Township of North Dumfries (2351 Fischer Hallman Road, Township of North Dumfries)
- VI. Part of Lot 43, Concession 12, being Part 10 on 58R-21999, (Part of PIN 03847-0006), Township of North Dumfries (2267 New Dundee Road, Township of 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 31<sup>st</sup> day of December, 2028, 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 Fischer Hallman Road and New Dundee Road, 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 42, Concession 12, being Parts 6 and 7 on 58R-21999, (Part of PIN 03847-0010), Township of North Dumfries (Southeast Quadrant of Intersection of Fischer Hallman Road and New Dundee Road, Township of North Dumfries)
  - II. Part of the Road Allowance Between Lots 42 & 43, Concession 12, being Part 12 on 58R-21999, (Part of PIN 03847-0007), Township of North Dumfries (2351 Fischer Hallman Road, Township of North Dumfries)
- 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 to commence the expropriation process: (i) in compliance with the requirements of the Act, and (ii) in furtherance of the Project's timeline by expropriating the required lands and interests.

## **3. Strategic Plan:**

This Project supports the 2023-2027 Strategic Plan under the Focus Area of Climate Aligned Growth and, more specifically, the following strategic outcomes: (i) Use a climate adaptation lens to re-imagine infrastructure, land and services for growth; and (ii) Foster car-alternative options through complete streets and extended alternative transportation networks.

## **4. Report Highlights:**

### **a) Project Overview**

The intersection was historically controlled by stop signs and then converted to a signalized intersection in 1996.

A roundabout at this location would significantly decrease high speed rural collisions, provides better level of service for traffic and provides a gateway for speed reduction entering the future urban environment to the north.

### **b) Project Timing**

Early works, including utility relocations, are scheduled to commence in early 2025. Road construction is scheduled to commence in May 2025.

### **c) Properties Impacted**

The implementation of the recommended improvements directly impacts six (6) properties. A map of the impacted properties is attached hereto as Appendix "A". Land acquisitions are required from all six (6) of the properties to accommodate the said improvements. These acquisitions include a partial fee simple interest from all six (6) of the properties and a temporary easement from two (2) (of the six (6)) properties for grading purposes.

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:**

Regional Council approved the proposed construction of a roundabout (and associated works) at the intersection of Fischer Hallman Road and New Dundee Road, in the City of Kitchener and in Township of North Dumfries, on October 12, 2022, as outlined in Report EES-DCS-22-001.

The collision history for the 5-year period between 2014 to 2018 was reviewed. During this period, 26 collisions were recorded, 13 of which were classified as non-fatal injury and 13 classified as property damage only. Sixteen of the collisions (62%) were classified as rear-end, indicating that high speeds and lack of left-turn lanes may be a factor. This triggered a need for a study of this intersection, having regard to safety performance, traffic capacity and total life cycle costing.

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

**Public:** All of 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 each of them (attached as Schedule “B”). All of the affected property owners have been provided with appraisals and the opportunity to enter into agreements. Legal Services staff contacted all 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 has been negotiating property acquisitions over the past several months and intends to continue negotiations with property owners in an effort to achieve settlements of their claims under the Act.

**Area Municipalities:** A meeting was held with Township staff and the Region’s Project Manager to review the scope and timing of the project. North Dumfries’ Township staff are in favour of the roundabout. In addition, City of Kitchener staff were advised of the plans for a roundabout at this location and they did not present any objections.

## **7. Financial Implications:**

The Region’s approved 2024-2033 Transportation Capital Program includes a budget of \$655,200 in 2024 and \$2,945,000 in 2025-2026 for New Dundee Road at Fischer-Hallman Road (project #05284) to be funded from the Roads Regional Development Charges Reserve Fund.

There are sufficient funds for the expropriation of these lands.

**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 Fischer Hallman Road (Regional Road 50) and New Dundee Road (Regional Road 12), in the City of Kitchener and in the Township of North Dumfries, to improve road safety.

**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 Subject Lands

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