



Administrative Report

Office of the County Solicitor

To: Warden MacDonald and Members of Essex County Council

From: David Sundin, BA (Hons), LL.B.
County Solicitor

Date: Wednesday, November 01, 2023

Subject: Expropriation of Parts 27 and 28 on Reference Plan 12R-27997

Report #: 2023-1101-LCS-R28-DMS

Purpose

The Purpose of this Administrative Report is to provide County Council with the necessary background information to exercise its role as the "approving authority" pursuant to the provisions of the *Expropriations Act*.

Background

On November 20, 2019, Council for the Corporation of the County of Essex (the "**County**") authorized, pursuant to By-law Number 48-2019, the issuing of an Application for Approval to Expropriate (the "**Application**") the lands described as Parts 1 to 46 on Reference Plan 12R-27997, being the parts required for Phase 1 of the multi-phase improvements being made along County Road 42 (the "**Project**"). The lands for Phase 1 of the Project run from Pike Creek to the east of County Road 19 westward to Strawberry Drive. A copy of Reference Plan 12R-27997 is appended to this Report as **Appendix 1**. A copy of the Application is appended to this Report as **Appendix 2**.

On January 15, 2020, County Council, in its role as the "approving authority" pursuant to the provisions of the *Expropriations Act*, approved the expropriation of Parts 1 through 26, Parts 29 through 34, and Parts 37 through 46 on Reference Plan 12R-27997, following which the County registered an Expropriation Plan against those Parts, and became the registered owners of those Parts. This action was authorized pursuant to the provisions of By-law Number 2020-01.

At the time of passing of By-law Number 2020-01, the County was not in a position to complete the expropriation of Parts 27 and 28 on Reference Plan 12R-27997, as the owner of those parcels had requested a Hearing of Necessity, which paused the expropriation process.

Shortly after the passing of By-law Number 2020-01, the COVID 19 pandemic resulted in shut downs across the Province, including the closure of the Ontario Land Tribunal ("**OLT**"), such that the required Hearing of Necessity could not be held for a lengthy period of time. Following the Province lifting most of the COVID 19 pandemic restrictions, there was a backlog at the OLT, and a number of other delays in proceeding with the Hearing of Necessity caused by the unavailability of certain experts.

All of the delays with the OLT are now irrelevant however, as the owner of Parts 27 and 28 on Reference Pan 12R-27997 has now withdrawn its request for a Hearing of Necessity. As such, County Council is now, again in its role as the "approving authority" under the *Expropriations Act*, in a position to approve the expropriation of Parts 27 and 28 on Reference Plan 12R-27997.

Discussion

Parts 27 and 28 on Reference Plan 12R-27997 are required by the County to complete construction of the planned roundabout at the intersection of County Road 19 and County Road 42. Without these Parts, the construction of the roundabout, or intersection improvements in general, cannot be completed.

The Council, as the "approving authority" must consider the information received from Administration to determine if the expropriation of Parts 27 and 28 on Reference Plan 12R-27997 is "fair, sound, and reasonably necessary" for the County to achieve its objectives for making improvements to County Road 42 from Pike Creek to Strawberry Drive, including the construction of a roundabout and the widening of County Road 42. As the County has secured all other lands required and the Project is well underway, the information from Administration to County Council is that the expropriation of Parts 27 and 28 on Reference Plan 12R-27997 is fair, sound, and reasonably necessary.

Financial Implications

The County will be required to compensate the owner of Parts 27 and 28 on Reference Plan 12R-27997 for the value of the lands, reimburse the owner for its reasonable legal and professional expenses, and may be liable for certain other amounts, as provided for in the *Expropriations Act*. The

County has budgeted amounts for the acquisition of lands along the County Road 42 and County Road 43 corridors as part of the Project, with such amounts likely being sufficient to complete all required transactions.

Consultations

Throughout the handling of this matter and in preparing this Report the County Solicitor has consulted with the Infrastructure and Planning Services Department and the Finance Department.

Recommendation

That Essex County Council consider and adopt a By-law that:

- (1) grants approval for the expropriation of the lands designated as Parts 27 and 28 on Reference Plan 12R-27997; and,
- (2) authorizes the Clerk to, among other things, cause an Expropriation Plan to be registered on title to the lands described as Parts 27 and 28 on Reference Plan 12R-27997 to finalize the expropriation of those lands.

Approvals

Respectfully Submitted,

David M. Sundin

David Sundin, BA (Hons), LL.B., County Solicitor

Concurred With,

Sandra Zwiers

Sandra Zwiers, MAcc, CPA, CA, Chief Administrative Officer

Appendix	Title
1	Reference Plan 12R-27997
2	Application for Approval to Expropriate Land