



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, December 06, 2023

Subject: Commencement of Expropriation Process for Certain Lands Along County Road 43

Report #: 2023-1206-LCS-R33-DMS

Purpose

The purpose of this Administrative Report (the "**Report**") is to provide County Council with the necessary information for County Council to authorize, in the County's position as an "expropriating authority", as defined by the *Expropriations Act*, as amended (the "**Act**"), the commencement of the formal expropriation with respect to certain lands (more particularly described below) along County Road 43 from its current intersection with County Road 42 to the CP rail line to the north of County Road 42.

Background

Since in or about 2009 the County has been progressively working towards acquiring all of the lands required to complete certain improvements to the County Road 42 corridor from its intersection with County Road 19, west towards the City of Windsor limits, and the County Road 43 corridor from its intersection with County Road 42 north towards the City of Windsor limits. There have been a number of studies that have called for improvements to both of those corridors, including road widening and other improvements, and a longstanding contractual obligation to have County Road 43 align directly with 11th Concession Road (the "**Project**"). In accordance with those studies, completion of improvements to the County Road 42 corridor are already well under way, and are planned to be completed in a number of phases over the next 3 to 4 years.

The Project has taken on greater urgency with the proposed construction of a new Regional Hospital on County Road 42 and the ongoing construction related to the planned battery plant at Banwell Road at its intersection with the EC Row Expressway.

Detailed design for the County Road 43 portion of the Project has been completed, with the lands identified as Parts 1 through 9, inclusive, on Reference Plan 12R-28827 (a copy of which is appended to this Report as **Appendix A**) and Parts 1 through 11, inclusive, on Reference Plan 12R-29051 (a copy of which is appended to this Report as **Appendix B**) being confirmed to be required to complete the County Road 43 portion of the Project.

Since in or about 2018, the County has made a concerted effort to compile all of the various lands required for completion of the Project, and has now acquired all of the lands required, except for those parts identified on the Reference Plans appended to this Report.

The County has made attempts to discuss acquisition of the lands from the various affected property owners, and remains hopeful that many of the affected property owners will enter into agreements to sell the affected lands to the County, without the need for a formal expropriation process.

Discussion

Should the County not be able to complete acquisition of the required lands through negotiations with the affected property owners, the County can expropriate the lands as an "expropriating authority" as defined by the Act.

While the County's preferred method of acquiring the lands remains to negotiate purchases, given that the County wants to be in a position to commence certain works on the lands in the 2024 construction season, it is necessary to commence the formal expropriation now, while negotiations are ongoing.

Financial Implications

Funds have been set aside in the County's budget sufficient to meet the expected costs of expropriating the affected lands.

Consultations

In preparing this Report, consultations have been held with the County's Infrastructure Services Department and the County's Financial Services Department.

Recommendation

That Essex County Council pass By-law Number 2023-57, which authorizes Administration to:

- (1) commence the expropriation process to acquire the lands described as Parts 1 through 9, inclusive, on Reference Plan 12R-28827 and Parts 1 through 11, inclusive, on Reference Plan 12R-29051, including authorizing the Clerk to issue an Application for Approval to Expropriate Land pursuant to the provisions of the Act; and
- (2) enter into Agreements of Purchase and Sale for the lands described as Parts 1 through 9, inclusive, on Reference Plan 12R-28827 and Parts 1 through 11, inclusive, on Reference Plan 12R-29051, where the owners of the said lands are willing to sell the lands to the County without the need for the necessary expropriation process, including authorizing the Clerk and the Warden to execute such documents as may be required to complete the said real estate transactions.

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
A	Reference Plan 12R-28827
B	Reference Plan 12R-29051