



REGION OF WATERLOO

CORPORATE RESOURCES
Legal Services

TO: Chair Jim Wideman and Members of the Planning and Works Committee

DATE: August 14, 2012 **FILE CODE:** L07-90

SUBJECT: AUTHORIZATION TO EXPROPRIATE LANDS (2ND REPORT) WITH RESPECT TO PHASE 1 OF RAPID TRANSIT PROJECT STAGE 1 FOR PROPERTY AND INTERESTS ON KING STREET SOUTH FROM JOHN STREET IN THE CITY OF WATERLOO TO KING STREET WEST AT VICTORIA STREET IN THE CITY OF KITCHENER

RECOMMENDATION:

THAT The Regional Municipality of Waterloo approve the expropriation of lands for the construction of Phase 1 of Stage 1 of the Rapid Transit Project being comprised of properties commencing at King Street South near John Street at the City of Waterloo, in the Regional Municipality of Waterloo and ending at King Street West near Victoria Street at the City of Kitchener, in the Regional Municipality of Waterloo as further detailed in Report CR-RS-12-013 dated February 28, 2012 and listed below:

FEE SIMPLE PARTIAL TAKINGS:

1. Part Lot 287, Plan 385 being Part 1 on 58R-17317, P.I.N. 22328-0188, City of Waterloo, Regional Municipality of Waterloo (238 King Street South, Waterloo)
2. Part Lot 288, Plan 385 being Parts 3 & 4 on 58R-17317, P.I.N. 22328-0096, City of Waterloo, Regional Municipality of Waterloo (242 King Street South, Waterloo)
3. Part of Lots A and C, Plan 437; Part of Lots 53 and 54, Plan 376 being Part 4 on 58R-17368, P.I.N. 22318-0130, City of Kitchener, Regional Municipality of Waterloo (618 King Street West, Kitchener)
4. Part of Lots 37 and 38, Plan 377 being Part 14 on 58R-17368, P.I.N. 22425-0038, City of Kitchener, Regional Municipality of Waterloo (687 King Street West, Kitchener)
5. Part of Lots 36 and 37, Plan 377 being Parts 12 and 13 on 58R-17368, P.I.N. 22425-0102, City of Kitchener, Regional Municipality of Waterloo (683 King Street West, Kitchener)
6. Part Lot 36, Plan 377 being Parts 10 & 11 on 58R-17368, P.I.N. 22425-0103, City of Kitchener, Regional Municipality of Waterloo (679 King Street West, Kitchener)
7. Part of Lot 401, Plan 376 being Part 10 on 58R-17373, P.I.N. 22318-0004, City of Kitchener, Regional Municipality of Waterloo (698 King Street West, Kitchener)
8. Part Lot 401, Plan 376 being Part 9 on 58R-17373, P.I.N. 22318-0003, City of Kitchener, Regional Municipality of Waterloo (702 King Street West, Kitchener)
9. Part of Lots 43 and 44, Plan 377 being Parts 15 and 16 on 58R-17373, P.I.N. 22424-0018, City of Kitchener, Regional Municipality of Waterloo (737 King Street West, Kitchener)

10. Part of Lots 29 and 30, Plan 377 being Part 7 on 58R-17368, P.I.N. 22425-0040 City of Kitchener, Regional Municipality of Waterloo (637-641 King Street West, Kitchener)
11. Part of Lots 21, 29 and 30, Plan 413 being Part 8 on 58R-17373, P.I.N. 22327-0087, City of Kitchener, Regional Municipality of Waterloo (730 King Street West, Kitchener)
12. Part of Lot 95, Plan 385 being Part 2 on 58R-17316, P.I.N. 22420-0109, City of Waterloo, Regional Municipality of Waterloo (209 King Street South, Waterloo)
13. Part of Lots 368 and 369, Plan 376 being Part 1 on 58R-17368, P.I.N. 22318-0043 City of Kitchener, Regional Municipality of Waterloo (672-688, 690 and 692 King Street West, Kitchener)
14. Part of Lot 21, Plan 413 being Part 7 on 58R-17373, P.I.N. 22327-0088 City of Kitchener, Regional Municipality of Waterloo (742 King Street West, Kitchener)
15. Part of Lots 44 and 45, Plan 377 being Part 17 on 58R-17373, P.I.N. 22424-0017, City of Kitchener, Regional Municipality of Waterloo (741 King Street West, Kitchener)
16. Part of Lot 32, Plan 377 being Part 9 on 58R-17368, P.I.N. 22425-0035, City of Kitchener, Regional Municipality of Waterloo (655 King Street West, Kitchener)
17. Part of Lot C, Plan 9 being Part 18 on 58R-17373, P.I.N. 22424-0014 City of Kitchener, Regional Municipality of Waterloo (765 King Street West, Kitchener)
18. Part of Lot 15, GCT and Part of Lot 25, Subdivision of Lot 15, GCT being Part 1 on 58R-17373, and Part of Lot 25, Subdivision of Lot 15, GCT, being Part 2 on 58R-17373, P.I.N. 22327-0217, City of Kitchener, Regional Municipality of Waterloo (800 King Street West, Kitchener)
19. Part of Lots 13 and 14 Subdivision of Lot 15 GCT; Part of Linwood Avenue, Plan 413; Part of Lot 29, Subdivision of Lot 15 GCT and Part of Linwood Avenue, Plan 413 being Parts 3, 4, 5 and 6 on 58R-17373, P.I.N. 22327-0216, City of Kitchener, Regional Municipality of Waterloo (760 King Street West, Kitchener)
20. Part of Lot 26, Municipal Compiled Plan of Lot 15, GCT being Part 4 on 58R-17367, P.I.N. 22327-0093, City of Kitchener, Regional Municipality of Waterloo (824 King Street West, Kitchener)
21. Part of Lot 16, Plan 376, being Part 2 on 58R-17368, P.I.N. 22318-0070, City of Kitchener, Regional Municipality of Waterloo (670 King Street West, Kitchener)
22. Part of Lot 38 Plan 377 being Part 15 on 58R-17368, P.I.N. 22425-0049, City of Kitchener, Regional Municipality of Waterloo (5 Agnes Street, Kitchener)
23. Part of Mount Hope Cemetery, Plan 385 being Part 1 on 58R-17367, P.I.N. 22423-0108, City of Kitchener, Regional Municipality of Waterloo (835 King Street West, Kitchener)
24. Part of Lane, Plan 385 Abutting Lot 311, being Part 3 on 58R-17367, P.I.N. 22327-0009, City of Kitchener, Regional Municipality of Waterloo (King Street at Green Street, Kitchener)
25. Part of Lots 39, 40 and 41, Plan 377 being Parts 11 & 12 on 58R-17373, P.I.N. 22424-0021, City of Kitchener, Regional Municipality of Waterloo (709 King Street West, Kitchener)
26. Part of Lots 309, 310 and 311, Plan 385 being Part 2 on 58R-17367, P.I.N. 22327-0096, City of Kitchener, Regional Municipality of Waterloo (828 King Street West, Kitchener)
27. Part of Lots 8, 9, and 12, Subdivision of Lot 15, GCT and Part Lot D, Registered Plan 9, being Parts 19, 20 and 21 on 58R-17373, P.I.N. 22424-0157, City of Kitchener, Regional Municipality of Waterloo (787 King Street West, Kitchener)

28. Part of Lots 42 and 43, Plan 377 being Part 14 on 58R-17373, P.I.N. 22424-0019, City of Kitchener, Regional Municipality of Waterloo (727 King Street West, Kitchener)
29. Part of Lot 53, Plan 376 being Part 3 on 58R-17368, P.I.N. 22318-0129, City of Kitchener, Regional Municipality of Waterloo (624 King Street West, Kitchener)
30. Part of Lots 41 and 42, Plan 377 being Part 13 on 58R-17373, P.I.N. 22424-0020, City of Kitchener, Regional Municipality of Waterloo (723 King Street West, Kitchener)
31. Part of Lots 31 and 32, Plan 377 being Part 8 on 58R-17368, P.I.N. 22425-0036, City of Kitchener, Regional Municipality of Waterloo (647 King Street West, Kitchener)
32. Part of Lots 22, 23, 24, and 25, Plan 377 and Part of Lot 112, Streets and Lanes being Part 5 on 58R-17368, P.I.N. 22425-0042, City of Kitchener, Regional Municipality of Waterloo (607 King Street West, Kitchener)
33. Part of Lot 25, Plan 377 being Part 6 on 58R-17368, P.I.N. 22425-0041, City of Kitchener, Regional Municipality of Waterloo (617-621 King Street West, Kitchener)
34. Part of Lots 287 and 288, Plan 385 being Part 2 on 58R-17317, P.I.N. 22328-0189, City of Waterloo, Regional Municipality of Waterloo (240 King Street South, Waterloo)
35. Part of Lots 34 and 35, Plan 377, being Parts 16 and 17 on 58R-17368, P.I.N. 22318-0180, City of Kitchener, Regional Municipality of Waterloo (667 King Street West, Kitchener)

being partly in the City of Kitchener, Regional Municipality of Waterloo and partly in the City of Waterloo, Regional Municipality of Waterloo or such lesser portion(s) of any of the said properties as may be determined to be required through the preliminary design process for the purposes of the construction of the Rapid Transit Project Stage 1 on King Street South, from John Street, in the City of Waterloo to King Street West at Victoria Street, in the City of Kitchener, in the Regional Municipality of Waterloo.

AND THAT staff be instructed to register a Plan of Expropriation with respect to the said properties, or such lesser portions of any of the said properties as may be determined through the preliminary design process, within three months of the granting of approval to expropriate said properties, in accordance with the *Expropriations Act* (Ontario) (the "Act");

AND THAT the registered owners be served with a Notice of Expropriation and a Notice of Possession with respect to the said properties after the registration of the Plan of Expropriation;

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 applicable properties in the amount of the market value of the interests in such lands as estimated by the Region's appraiser in accordance with the Act;

AND FURTHER THAT the Regional Solicitor be authorized to discontinue expropriation proceedings with respect to any above-referenced lands in the event that the Region is able to otherwise obtain registered title to such lands.

SUMMARY: N/A

REPORT:

The Region is in the process of acquiring lands required for the construction of Stage 1 of the Rapid Transit/Light Rail Transit (LRT) project which commences at Conestoga Mall in the City of Waterloo and ends at Fairview Park Mall in the City of Kitchener. The property acquisition and/or

expropriation process for the LRT project has been divided into 3 phases that are temporally sequenced to accommodate the commencement of utility relocation work as early as 2013 and the commencement of the construction of LRT infrastructure as early as 2014.

It is to be noted that thirty-five (35) property owners will be impacted by the Region's Phase 1 LRT ("Phase 1") land requirements. All land acquisitions are partial takings. The partial takings range in depth from less than 0.5 metres to approximately 6 metres, with the vast majority falling somewhere in the middle. Two (2) of the said takings form part of City of Kitchener or City of Waterloo lands which we expect to acquire through a negotiated settlement.

On February 28, 2012, Regional Council approved the commencement of the expropriation of properties forming part of Phase 1 as detailed in Report CR-RS-09-019. The appropriate forms under the Act were served to initiate formal proceedings under the Act for these properties. 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. Legal Services staff also 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.

To date, the Region has entered into an agreement of purchase and sale with one of the Phase 1 property owners. Legal Services staff recommends that expropriation proceedings be discontinued by the Region with respect to this property if the said purchase transaction is completed by registration of a Transfer on title conveying interest in the lands to the Region. Legal Services staff will continue to correspond with all Phase 1 property owners in order to reach a negotiated settlement with as many as possible.

The Region received a Notice for a Hearing of Necessity from one Phase 1 property owner. Legal Services staff was able to satisfy the said property owner's concerns prior to the Hearing and consequently the said property owner withdrew its request for a hearing.

The next step in the proceedings for the above-listed properties is for Council to approve the expropriation of those property interests. This approval will ultimately be endorsed upon a certificate of approval on the Plan of Expropriation for those properties not acquired under agreement. The Plan is then registered within three months of the approval. Ownership of the property vests with the Region upon the registration of the Plan. Notices of Expropriation are then served upon all registered owners, including tenants as shown on the assessment roll.

Once ownership by the Region is secured through the registration of the Plan, it is possible to serve the Notice of Possession. The date for possession can be no sooner than three months following the date of service of the Notice of Possession. The Notices of Expropriation and Notices of Possession may be served at the same time. In order to meet the construction time line, possession of all the required lands is needed by January of 2013 to commence utility relocations later that year, as well as, LRT infrastructure construction in 2014. Accordingly, Legal Services staff will be proceeding expeditiously to register the Expropriation Plan and serve the Notices of Expropriation and Notices of Possession following approval by Regional Council.

After registration of the Plan of Expropriation and prior to the taking of possession of the property the expropriating authority is required to serve the registered owners with an offer in full compensation of their interests in the land. The offer must be accompanied by the immediate payment of one hundred (100%) percent 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 property, which report formed the basis for the offer of

compensation.

It is to be noted that the expropriation of lands is on an “as is” basis and upon the registration of the Plan, the Region assumes responsibility for the lands, subject to minor caveats.

The subject lands are shown in the Plan attached as Appendix “A” hereto.

CORPORATE STRATEGIC PLAN:

The report supports Focus Area 3.1 of Council’s Strategic Focus: Implement a light rail transit system in the central transit corridor, fully integrated with an expanded conventional transit system.

FINANCIAL IMPLICATIONS:

Funding for the property acquisitions related to the Rapid Transit project is included in the approved 2012 ten year capital program for Rapid Transit.

OTHER DEPARTMENT CONSULTATIONS/CONCURRENCE:

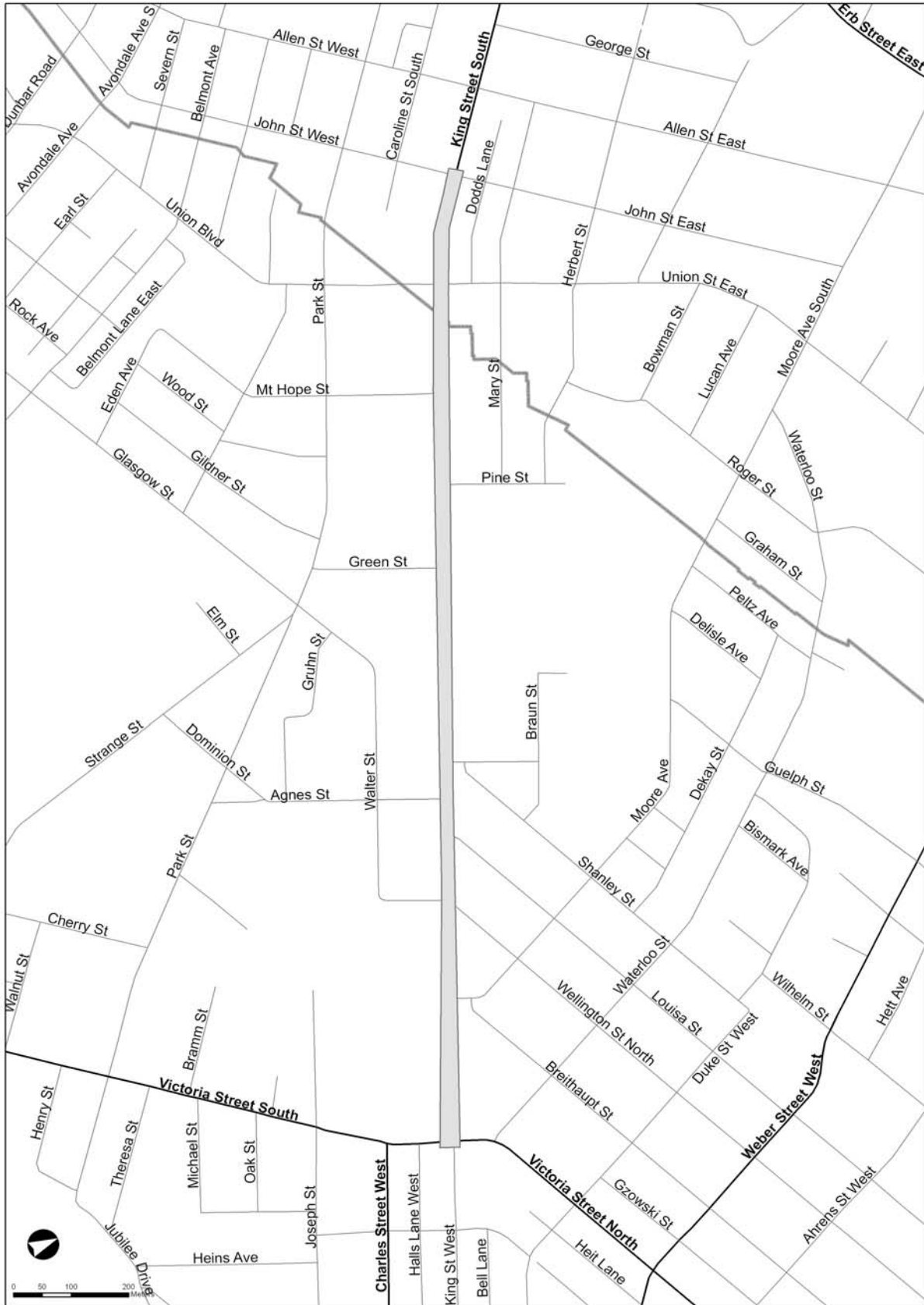
Environmental Services and Rapid Transit staff have been consulted in the preparation of this Report.

ATTACHMENTS

Appendix “A” – Plan showing subject lands

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APPROVED BY: *Gary Sosnoski*, Commissioner, Corporate Resources



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APPENDIX A PLAN SHOWING SUBJECT LANDS

