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The Regional Municipality of Durham Report

To: Works Committee
From: Acting Commissioner of Works
Report: #2023-W-38
Date: October 4, 2023

Subject:

Expropriation of Lands Required for the Whitby Zone 4 Reservoir and Pumping Station Project at 8425 Duffs Road, in the Town of Whitby

Recommendations:

That the Works Committee recommends to Regional Council:

- A) That authority be granted to Regional Municipality of Durham (Region) staff to initiate expropriation proceedings where necessary for the property requirements at 8425 Duffs Road, located at the southeast corner of Duffs Road and Myrtle Road West (Regional Road 5), in the Town of Whitby, as depicted in Attachment #1 and such other property requirements as may be determined and identified by Regional staff for the Whitby Zone 4 Reservoir and Pumping Station Project;
- B) That authority be granted to the Regional Clerk and Regional Chair to execute any notices and forms as may be statutorily mandated by the *Expropriations Act*, R.S.O. 1990, c. E.26 to give effect to Recommendation C) in this report, including the Notices of Application of Approval to Expropriate;
- C) That authority be granted to Regional staff to serve and publish Notices of Application for Approval to Expropriate the property requirements as described in Recommendation A) of this report and to forward to the Ontario Land Tribunal any requests for hearing received, to attend the hearings to present the Region's position, and to present the Ontario Land Tribunal's recommendations to Regional Council for consideration; and

- D) That all agreements successfully negotiated and reports required for amicable property acquisitions and all agreements and reports required for settlements pursuant to the *Expropriations Act*, R.S.O. 1990, c. E.26 related to the Whitby Zone 4 Reservoir and Pumping Station Project approved in accordance with the Delegation of Authority By-law 04-2023 or by Regional Council, be deemed confidential for any reporting requirements to Regional Council pursuant to section 239 (2)(c) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as it relates to a proposed or pending acquisition or disposition of land for Regional corporate purposes, and only be released publicly by the Commissioner of Works once all claims for compensation have been resolved on a full and final basis.
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Report:**1. Purpose**

- 1.1 The purpose of this report is to obtain approval to expropriate property requirements for the Whitby Zone 4 Reservoir and Pumping Station Project in the Town of Whitby (Whitby) if the Regional Municipality of Durham (Region) is unable to obtain amicable agreements through negotiations with property owners.

2. Background

- 2.1 The Region identified the site at 8425 Duffs Road at the southeast corner of Duffs Road and Myrtle Road West (Regional Road 5), Whitby, as its preferred site to acquire and build the infrastructure required for the Whitby Zone 4 Reservoir and Pumping Station Project (the "Project"). In the Municipal Class Environmental Assessment (EA) report dated May 23, 2022, 8425 Duffs Road was depicted as the preferred site for water servicing Zone 4 in north Whitby. The Region has already conducted Stage 3 and 4 archaeological studies on the required lands to make the lands usable. The project includes a new Zone 4 pumping station that will be built at the existing Zone 3 Duffs Road Reservoir site, located at 7705 Duffs Road, Whitby, to deliver water to the upper-pressure zone, Zone 4, and a feedermain connection between the preferred 8425 Duffs Road site and the new Zone 4 pumping station at the Zone 3 Duffs Road Reservoir site.

3. Property Acquisitions

- 3.1 Regional staff have identified land requirements from the property at 8425 Duffs Road, Whitby, at the southeast corner of Duffs Road and Myrtle Road West (Regional Road 5) that will be affected by this Project. The Region must acquire a portion of this property to facilitate the works. The requirements are over Parts 2

and 4 on Plan 40R-31835, an area of 28.9 acres of the overall 221.77-acre Parent Parcel (Attachment #1).

- 3.2 The Region and the property owners commissioned third-party appraisal reports to determine the fair market value and compensation for the lands. Negotiations with the property owners are ongoing.
- 3.3 While the Region attempts to obtain land requirements through amicable negotiations, there are situations where negotiations become lengthy, or an agreement cannot be reached with the property owners. Where lengthy negotiations are not an option due to project timelines or an agreement cannot be reached with the landowners, Regional staff may need to consider the option to commence the expropriation process to complete the project in a timely manner.

4. Conclusion

- 4.1 Regional staff will continue to negotiate with the property owners to acquire the necessary lands. Should these negotiations fail, this approval will permit staff to commence expropriation proceedings to ensure the timelines are met, allowing the projects to proceed to construction.
- 4.2 Should Regional staff exercise the option to commence expropriation pursuant to the authority being sought through this report, staff will seek further authority from Regional Council to expropriate the property requirements and proceed to serve notices on affected property owners as mandated by the *Expropriations Act*, R.S.O. 1990, c. E.26.
- 4.3 This report has been reviewed by Legal Services – Office of the CAO.
- 4.4 For additional information, contact Christine Dunkley, Director, Corporate Infrastructure and Strategic Business Services, at 905-668-7711 extension 3475.

5. Attachments

Attachment #1: Location Map

Respectfully submitted,

Original signed by:

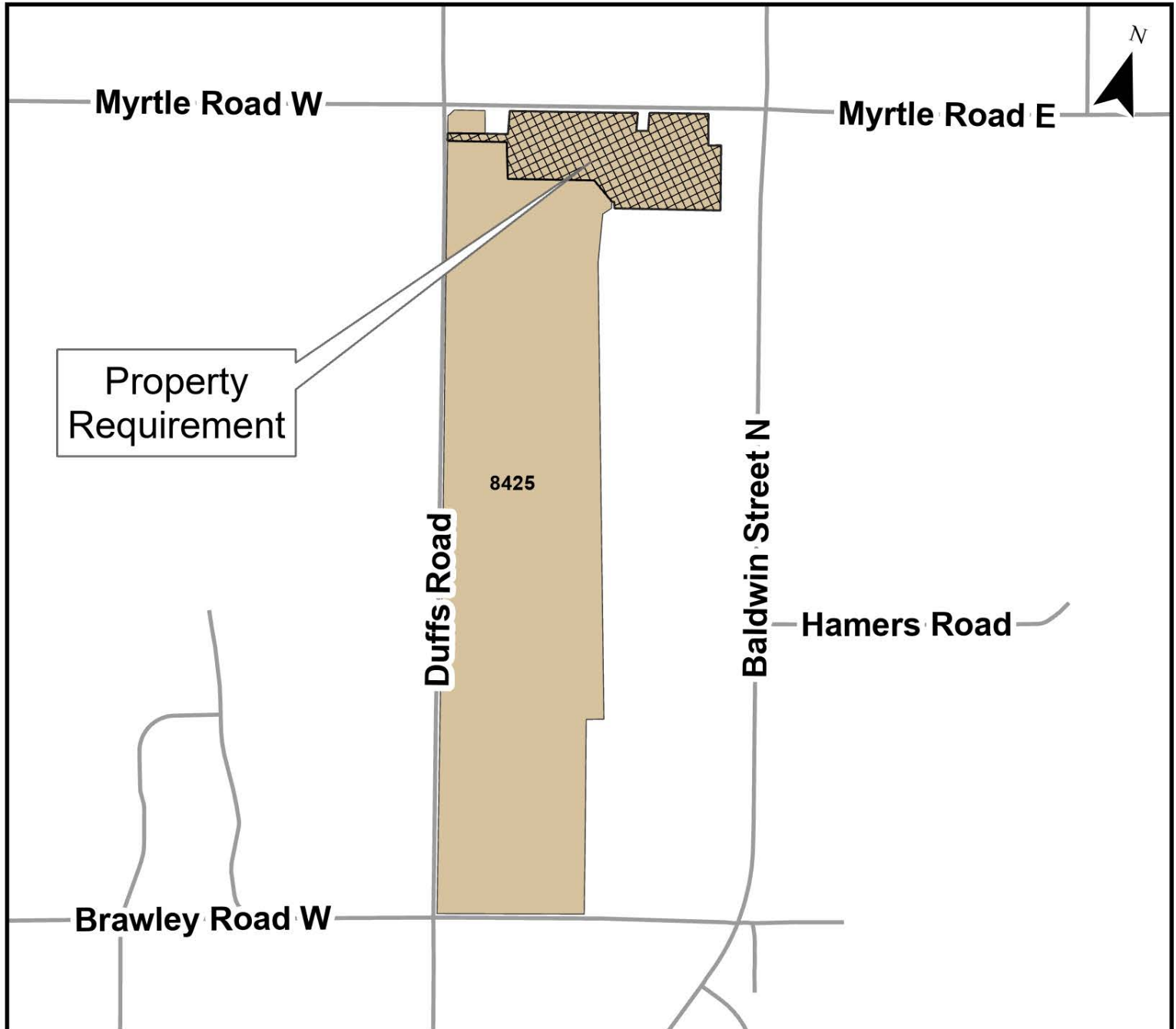
Ramesh Jagannathan, MBA, M.Eng., P.Eng., PTOE
Acting Commissioner of Works

Recommended for Presentation to Committee

Original signed by:

Elaine C. Baxter-Trahair
Chief Administrative Officer

Attachment #1 - Location Map for the Whitby Zone 4 Reservoir and Pumping Station Project



**Part of Lots 21 and 22,
Concession 8
Town of Whitby**

GIS Data: Produced by Durham Region, 2023.
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Property Requirement



8425 Duffs Road



Durham Roads

