

The Corporation of the City of Kawartha Lakes

Council Report

Report Number RS2017-010

Date: August 22, 2017
Time: 2:00 p.m.
Place: Council Chambers

Ward Community Identifier:

Subject: Surplus Declaration and Conveyance of Part of St. Thomas' Anglican Cemetery, legally described as Part of Lot 8, North of Portage Road, designated as Part 2 on Plan 57R2197, in the former Geographic Township of Bexley, City of Kawartha Lakes

Author Name and Title: Laura Carnochan, Law Clerk – Realty Services

Recommendation(s):

RESOLVED THAT Report RS2017-010, **Surplus Declaration and Conveyance of Part of St. Thomas' Anglican Cemetery, legally described as Part of Lot 8, North of Portage Road, designated as Part 2 on Plan 57R2197, in the former Geographic Township of Bexley, City of Kawartha Lakes**, be received;

THAT the subject property, legally described as Part of Lot 8, North of Portage Road, designated as Part 2 on Plan 57R2197, in the former Geographic Township of Bexley, City of Kawartha Lakes, be declared surplus to municipal needs;

THAT the conveyance of the subject property for nominal consideration be supported, notwithstanding sections 3.03 & 3.04 of By-law 2010-118 and pursuant to sections 1.2 & 1.3 of Policy C-2014-DEV-001, in accordance with the provisions of Registered Instrument 143084;

THAT notice be given in accordance with By-laws 2008-065 and 2010-118, as amended;

THAT on completion of the public notice, Council shall consider any deputation or public input in opposition of the conveyance, if any, and if appropriate, pass a

Department Head:_____

Financial/Legal/HR/Other:_____

Chief Administrative Officer:_____

By-law (with any amendments deemed necessary) to authorize its disposition;
and

THAT the Mayor and Clerk be authorized to execute all legal closing documents required for the conveyance of the subject property.

Background:

The subject property, legally described as Part of Lot 8, North of Portage Road, designated as Part 2 on Plan 57R2197, in the former Geographic Township of Bexley, City of Kawartha Lakes was transferred to the Incorporated Synod of the Diocese of Toronto for church and cemetery purposes by transfer/deed of land registered on December 21, 1978 as R143084.

The subject property was acquired by the City of Kawartha Lakes by transfer registered on March 18, 2016 as KL109627, as part of the St. Thomas' Anglican Cemetery.

The subject property is subject to an interest in R143084, which states:

TO HAVE AND TO HOLD unto the said Grantee its successors and assigns for so long as it shall be used for church and cemetery purposes and no longer should the church and cemetery cease to exist.

SUBJECT NEVERTHELESS to the reservations, limitations, provisos and conditions expressed in the original grant thereof from the Crown. When the said lands are no longer used for church and cemetery purposes, they shall be returned to the Grantor.

The purpose of this report is to obtain Council approval to proceed with the conveyance of the subject property back to the Estate of the Grantor.

Appendix A is a map showing the general area of the property, Appendix B is an aerial photo of the subject property, Appendix C is a map of the subject property, Appendix D is a copy of the transfer/deed of land registered as R143084.

Rationale:

The Director of Community Services has confirmed that there are no current plans for utilizing the subject parcel for cemetery purposes in the foreseeable future.

The subject property was circulated to the Land Management Committee members for review and comment prior to presenting same to Council. No objections have been received from the committee members to having this

property declared surplus to municipal needs and conveyed to the Estate of the Grantor for nominal consideration.

Section 1.2 of the City's Disposal of Real Property Policy C-24-DEV-001 states that real property shall be disposed of at the appraised market value unless waived by Council.

Section 1.3 of Policy C-24-DEV-001 states that, unless prohibited by the Municipal Act, 2001, City Council may dispose of real property at less than market value if it is in the best interests of the City to do so.

Similarly, section 3.03 of By-law 2010-118, dealing with the acquisition and disposition of land, requires an appraisal, subject to the exemption at section 3.04, which allows disposition to public bodies, closed highways, lands purchased pursuant to the right at section 42 of the Expropriations Act, and other examples listed at Schedule A to the By-law. Schedule A does not generally list the example where land is purchased pursuant to a right of the purchaser, however, the right of the purchaser in the Expropriations Act scenario is an example of one such right.

Because the purchaser of this property has a right to the "return" of this property, the purchaser has a right to obtain this property for nominal consideration. Section 106 of the Municipal Act, 2001, which prohibits the conveyance of City property to a commercial or industrial purchaser below fair market value, is not offended by virtue of the existence of the purchaser's right of return.

Conveyance of the subject property to the Estate of the Grantor is appropriate given that it is no longer required for cemetery or church purposes.

Other Alternatives Considered:

Council may decide to retain the subject property. That would be inconsistent with the nature of the City's interest as limited by instrument R143084 and is not recommended in this circumstance.

Financial/Operation Impacts:

All costs of the transaction shall be paid by the transferee.

Relationship of Recommendation(s) To The 2016-2019 Strategic Plan:

This Report does not directly impact or align with a specific Strategic Priority.

Consultations:

Land Management Committee (established by Policy 032-CAO-005)

Director of Community Services

Attachments:

Appendix A: General Area Map



Appendix A - General
Location Map.pdf

Appendix B: Aerial Photo



Appendix B -
Aerial.pdf

Appendix C: Map



Appendix C -
Map.pdf

Appendix D: Instrument R143084



Appendix D -
R143084.pdf

Department Head E-Mail: rcarlson@city.kawarthalakes.on.ca

Department Head: Robyn Carlson