

Council Report

Report Number:	RS2021-021
Meeting Date:	June 15, 2021
Title:	Proposed Surplus Declaration, Closure, and Sale of a Portion of Gilson Street, Little Britain
Description:	Proposed Surplus Declaration, Closure, and Conveyance of a Portion of Road Allowance Legally Described as Part of Gilson Street on Plan 343 Except Part 2 on Plan 57R-929; Part of Lot 5, Concession A, being Part 1 57R-929; S/T R407182, R256369, R373813 & R373140, in the Geographic Township of Mariposa, City of Kawartha Lakes, designated as Parts 1 and 2 on Plan 57R-9063
Author and Title:	Laura Carnochan, Law Clerk – Realty Services

Recommendations:

That Report RS2021-021, **Proposed Surplus Declaration, Closure, and Sale of a Portion of Gilson Street, Little Britain**, be received;

That the subject property, being a portion of road allowance legally described as Part of Gilson Street on Plan 343 Except Part 2 on Plan 57R-929; Part of Lot 5, Concession A, being Part 1 57R-929; S/T R407182, R256369, R373813 & R373140, in the Geographic Township of Mariposa, City of Kawartha Lakes, designated as Parts 1 and 2 on Plan 57R-9063, being Part of PIN: 63195-0381 (LT), be declared surplus to municipal needs;

That the closure of the portion of road allowance and sale to the adjoining landowners be supported, in principle, in accordance with the provisions of By-Law 2018-020, as amended, and the Municipal Act, 2001, and subject to the parties entering into a conditional Agreement of Purchase and Sale;

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

That, notwithstanding Section 3.05 Public Notice of Disposition By-law 2018-020, which section requires that disposition of any real property be advertised in a local newspaper and on the City website for a 3 week period prior to declaration of surplus by Council, that Council waive this requirement (as this land was originally conveyed to the City from the now-purchaser/ developer for road purposes);

That, notwithstanding Section 4.04 of By-law 2018-020, the subject portions of road allowance be sold for nominal consideration (as this land was originally conveyed to the City from the now-purchaser/ developer for road allowance purposes, and thus the City did not pay for this land and nor does the purchaser acquire a financial advantage as a result of the conveyance and reconveyance);

That staff be directed to commence the process to stop up and close the said portion of road allowance;

That the by-law attached as Appendix H required to close the road and authorize its disposition shall be passed;

That the deeming by-laws attached as Appendix I and Appendix J be passed contemporaneously with the disposition by-law; and

That the Mayor and Clerk be authorized to sign all documents to facilitate the road closing and sale of the lands.

Background:

In 2018 Engineering received correspondence from the solicitor for the developer of the Gilson Point Subdivision, advising that it had been contemplated that when Gilson Street was extended the redundant parts of the cul-de-sac would be stopped up, closed, and conveyed to the abutting landowners.

At that time, the developer had not completed the required subdivision works and the City did not move forward with the request to stop up, close, and convey the subject portions of road allowance.

The developer has now completed the required road and stormwater management works and the City has assumed the Gilson Point Subdivision, as per By-Law 2020-126 (attached as Appendix D).

The City Solicitor reviewed the request and had no issues with proceeding with the stop up, closure and sale of the subject portion of road allowance.

The purpose of this report is to advise Council that the City Solicitor recommends that the subject property be declared surplus to municipal needs and that approval be given, in principle, for the closure and sale of the requested portion of the road allowance to the adjoining landowner.

Rationale:

The subject portion of the road allowance is not required for municipal purposes, as no portion of the travelled road is located within the cul-de-sac.

The "subject to" interests noted in the legal description of the subject road allowance were reviewed by Realty Services and determined to be instruments setting out rights-of-way over the 66 foot width of Gilson Street, not including the cul-de-sac portion that is subject to this request, and therefore, will not be affected by the proposed sale. A map outlining the rights-of-way (outlined in purple) in relation to the subject portion of road allowance (outlined in red) is attached as Appendix E.

The interested parties own property which borders the subject portion of road allowance. As a result, pursuant to the City's By-Law to Regulate the Disposition of Municipal Real Property (By-Law 2018-020, as amended) that portion of the road allowance can be conveyed to the adjoining landowners.

The subject road allowance does not lead to water, it borders private property, and therefore, the stop up, closure, and sale would not contravene Section 8.00 of By-Law 2018-020, as amended.

As per section 4.04 of By-Law 2018-020, minimum set prices for road allowance sales are established. Notwithstanding that provision, Staff recommends conveying the land for nominal consideration, as the lands are being reconveyed to the developer of the subdivision. Thus the City did not pay for this land. As this was originally conveyed to the City for road purposes (not park purposes), the purchaser does not acquire a financial advantage as a result of the conveyance and reconveyance at nominal consideration (as it would in the case of a reconveyance of land originally donated for parkland purposes).

When the deeming by-laws are passed, the portions of the road allowance will merge with the adjacent lot. The developer will then be in a position to sell the resultant lot into third party ownership.

As per Section 3.05 Public Notice of Disposition By-law 2018-020, disposition of any real property is required to be advertised in a local newspaper and on the City website for a 3 week period prior to declaration of surplus by Council. Staff are proposing that the public notification should be waived in this scenario given that the lands have never been used for municipal purposes and are being proposed to be reconveyed to the developer. There is also an urgency given that the developer has already sold one of the adjoining lots and is in the process of selling the other.

Other Alternatives Considered:

Council may decide not to sell the road allowance. That would be inconsistent with past practice and is not recommended in this circumstance.

Council could decide to sell the lands for the minimum set price set per By-Law 2018-020, instead of nominal consideration. The minimum price for an interior road allowance is \$15.00 per linear foot of road allowance (based on a 66-foot width). Should Council decide to proceed to dispose of the property using the price of \$15.00 per linear foot of road allowance, consideration for the subject portion of road allowance is calculated as approximately \$700.00. This is not recommended in this circumstance, given that the purchaser is the original owner of the subject property and the lands are residual portions of road allowance which have not been used for municipal purposes.

Alignment to Strategic Priorities

The recommendations set out in this Report align with the following strategic priority:

- Good Government
 - Effective management of the municipal building and land portfolio

Financial/Operation Impacts:

The parties have been asked to enter into a conditional Agreement of Purchase and Sale with a non-refundable \$5,000.00 deposit to cover initial road closing costs. All costs of the transaction, plus a \$1,500.00 fee to cover the City's staff time expenses will be paid for by the purchaser.

Consultations:

City Solicitor
Supervisor – Development Engineering

Attachments:

Appendix A – General Location Map



Appendix A -
General Location Map

Appendix B – Aerial Photo



Appendix B - Aerial
Map.pdf

Appendix C – Map



Appendix C -
Map.pdf

Appendix D – By-Law 2020-126, Being a By-Law to Assume Gilson Street and Wall Street



Appendix D -
2020-126 Assume Gi

Appendix E – Map of Rights-of-Way



Appendix E - Map
of Rights-of-Way.pc

Appendix F – Reference Plan 57R-9063



Appendix F -
Reference Plan 57R-

Appendix G – Reference Plan 57R-929



Appendix G -
Reference Plan 57R-

Appendix H – Proposed By-Law to Stop Up, Close, and Convey of a Portion of Gilson Street, Little Britain



Appendix H -
Proposed By-Law to

Appendix I – Proposed By-Law to Deem Lot 9 Plan 57M764



Appendix I -
Proposed By-Law to

Appendix J – Proposed By-Law to Deem Lot 10 Plan 57M764



Appendix J -
Proposed By-Law to

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Department File: L25-20-RS004