

Council Report

Report Number:	RS2021-051
Meeting Date:	December 14, 2021
Title:	Surplus Property Located on Butternut Drive, Fenelon Falls
Description:	Recommendation to Rescind Surplus Declaration of City-Owned Property Located on Butternut Drive, Fenelon Falls
Author and Title:	Laura Carnochan, Law Clerk – Realty Services

Recommendations:

That Report RS2021-051, **Surplus Property Located on Butternut Drive, Fenelon Falls**, be received;

That Resolution CR2014-101 be amended to remove CON 5 PT LOT 1 PLAN 474 BLK A (PIN: 63163-0203 (LT)) from the list of properties to be sold;

(A two-thirds majority vote is required to pass this specific resolution)

That the surplus declaration of CON 5 PT LOT 1 PLAN 474 BLK A (PIN: 63163-0203 (LT)) be rescinded.

(A two-thirds majority vote is required to pass this specific resolution)

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

At the Council Meeting of January 28, 2014, Council adopted the following resolution:

Moved by Councillor Strangway, seconded by Councillor Yeo,

RESOLVED THAT Report LM2014-003, **Surplus Declaration of City Owned Lands in Wards 4, 5, and 6**, be received;

THAT the following City owned lands be declared surplus to municipal needs:

...

ID #	Roll Number	Legal Description	Street Location
33	165121001028507	CON 5 PT LOT 1 PLAN 474 BLK A	Butternut Dr

...

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

THAT the properties be investigated and, if suitable, prepared and marketed for sale to the general public in accordance with any current or future policies in place and be sold to the interested parties for no less than the appraised value plus any and all costs associated with the transaction;

THAT all costs associated with investigating, preparing or marketing the properties be taken from the Property Development Reserve;

THAT on completion of the public notice, Council shall consider any deputation or public input in opposition of the sale, if any, and if appropriate, pass a by-law (with amendments deemed necessary) to authorize the disposition; and

THAT the Mayor and Clerk be authorized to execute any documents and agreements by the approval of this decision.

CARRIED CR2014-101

The purpose of this Report is to recommend that this property no longer be declared surplus for the purpose of sale, for the reasons provided below.

Rationale:

The subject property, which is legally described as Block A on Plan 474; Together With VT96592, in the Geographic Township of Fenelon, City of Kawartha Lakes (PIN: 63163-0203 (LT)) was acquired by The Corporation of the Township of Fenelon as a condition of registering a Subdivision Agreement (see Deed of Land attached as Appendix D).

The subject property was declared surplus in 2014 and steps were taken to prepare the property for sale on the open market. However, in completing a site visit to the property, Realty Services staff became aware that the property is used by the community for the purpose of accessing the water and as a boat docking area. This was likely the intent for the property at the time of the registration of the plan of subdivision, as this property was set out as a block as opposed to a lot. A sign was located on the property indicating that the property was for the use of the "Ken-Reid Park Residents" (see photo attached as Appendix E). Realty Services completed records searches and was unable to locate any agreement which would allow exclusive use of the property.

Given the public usage of the property, the Land Management Team re-reviewed the property at several meetings in 2019. The Team felt that the issue of encroaching docks on the land should be dealt with before the property could move any further in the disposition process. Further, the Team reviewed the issue of whether or not a portion of the property could be retained for docking and the balanced severed and offered for sale. Due to the configuration of the property at the waterfront, it was decided that this would likely lead to a dispute over the access to water as between the purchaser and the adjacent public user.

The property was most recently reviewed at the Land Management Team meeting of October 4, 2021 and the Team felt that the entirety of the property should be retained for public access. Further, as the property is heavily treed, the Team felt that the property could be considered as part of the offset of the City's carbon footprint.

Other Alternatives Considered:

Council could decide to keep the property surplus and direct Staff to continue preparing the property for sale on the open market. This is not recommended, given the public usage of the property, which may lead to neighbourhood disputes when the property is sold.

If Council does decide to proceed with a sale, consideration should be given to Staff's proposal to sever a portion of the property for sale and retain a portion for public

access. A draft Reference Plan has been attached as Appendix F, which outlines Staff's proposal (sell the portion outlined in red and retain the portion outlined/hatched in green). It should be noted that this proposal would not give the purchaser full rights to the waterfront, which may lessen the saleability of the property.

Alignment to Strategic Priorities:

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

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

In retaining this property for tree cover and use by the public for boating, the recommendations further support the strategic priorities of "a healthy environment" and "an exceptional quality of life".

Financial/Operation Impacts:

If Council decides to rescind the surplus declaration and not proceed with a sale of the subject property, the City will be unable to recover the survey costs of \$4,068.00 (which was paid from the Property Development Reserve). The City will also forgo the revenue from the sale of land itself. Realty Services has been tasked with selling a net revenue of \$6,000,000.00 in City land over a 10-year period. In January 2022, Realty Services will bring forward a report to Council demonstrating how this is achievable with existing surplus land, assuming that this property will not be sold.

Consultations:

Land Management Team

Attachments:

Appendix A – General Location Map



Appendix A -
General Location Map

Appendix B – Aerial Map



Appendix B - Aerial
Map.pdf

Appendix C – Map



Appendix C -
Map.pdf

Appendix D – Deed of Land (VT96593)



Appendix D - Deed
of Land (VT96592).pdf

Appendix E – Photo of “No Trespassing” Sign



Appendix E - Photo
of No Trespassing Sign

Appendix F – Draft Reference Plan (Proposed Severance)



Appendix F - Draft
Reference Plan (Proposed)

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