



Committee of the Whole Report

Report Number: RS2022-004

Meeting Date: January 11, 2022

Title: Proposed Surplus, Declaration, Closure and Sale of a Portion of Road Allowance adjacent to 89, 90, 95 Fell's Point Road

Description: Proposed Sale of a Portion of Road Allowance Legally Described as Part of Lots 31 and 32, Concession 11, in the Village of Fenelon, Part 2 on 57R-3525 being Fell's Point Road, in The City of Kawartha Lakes, to the Owners of 89, 90 and 95 Fell's Point Road.

Author and Title: Christine Oliver, Law Clerk – Realty Services

Recommendation(s):

That Report RS2022-004, **Proposed Surplus, Declaration, Closure and Sale of Portion of Road Allowance adjacent to 89, 90, 95 Fell's Point Road**, be received;

That subject property, being a portion of opened road allowance, legally described as as Part of Lots 31 and 32, Concession 11, in the Village of Fenelon, Part 2 on 57R-3525 being Fell's Point Road, in The City of Kawartha Lakes, adjacent to 89, 90, 95 Fell's Point Road, be declared surplus to municipal needs;

That the closure of the road allowance and sale to the adjoining landowner be supported, in principle, in accordance with the provision 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;

That Council set the value of the land at the higher of the appraised value or the minimum set price of \$15.00 per linear foot of road allowance;

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

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

That a by-law (with any amendments deemed necessary) to close a portion of the opened road and authorize its disposition shall be passed if appropriate;

That a deeming by-law be passed contemporaneously with the disposition by-law;

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

That these recommendations be brought forward to Council for consideration at the next Regular Council Meeting.

Background:

Municipal Law Enforcement received a complaint regarding encroachments on the subject property, being the excess of 66' of the opened road allowance, adjacent to 89, 90 and 95 Fell's Point Road, in the Geographic Village of Fenelon, in The City of Kawartha Lakes. Municipal Law Enforcement completed a site visit and requested Realty Services to send an encroachment notice letter to each of the owners of 89, 90 and 95 Fell's Point Road, in the Geographic Village of Fenelon, in The City of Kawartha Lakes.

The Land Management Team (previously Land Management Committee) received a request from the owners of 89, 90 and 95 Fell's Point Road, in the Geographic Village of Fenelon, in The City of Kawartha Lakes, to purchase the adjacent road allowance, legally described as Part of Lots 31 and 32, Concession 11, in the Village of Fenelon, Part 2 on 57R-3525 being a portion of Fell's Point Road, in the City of Kawartha Lakes (attached as Appendix A is a location map, Appendix B is a map and Appendix C is an aerial map).

The request was reviewed by the Land Management Team on November 10, 2020 (when it was Land Management Committee) and at this time the Team noticed a number of encroachments were located on the subject property, being a portion of the opened road allowance. It was determined that the Team would be supportive of the disposition of the subject property, being the opened road allowance, adjacent to 89, 90 and 95 Fell's Point Road, in the Geographic Village of Fenelon, in The City of Kawartha Lakes, as to facilitate in rectifying the existing encroachments. The Team recommended that the applicants consult with Planning before proceeding to ensure a purchase would not result in a zoning contravention. The applicants consulted with Planning and then decided to proceed with the purchase.

Realty Services received deposits to proceed with the sale from the owners of 89, 90 and 95 Fell's Point Road, in the Geographic Village of Fenelon, in The City of Kawartha Lakes, to proceed with the sale.

Public Notice advertising the potential surplus declaration and sale of the subject road allowance was completed by newspaper circulation in Kawartha This Week on the 16th, 23rd and 30th days of December, 2021.

The purpose of this report is to advise Council that the Land Management Team (formerly Land Management Committee) recommends that the subject land be declared surplus to municipal needs and that approval be given, in principle for the closure and

sale of the requested portion of the excess of the 66' of the opened road allowance to the adjoining owners.

Rationale:

The owners of the properties located at 89, 90 and 95 Fell's Point Road, in the Geographic Village of Fenelon, in The City of Kawartha Lakes, have encroachments onto a portion of road allowance to the north of the travelled road and excess to the City's needs. Each property owner utilizes the space as a lot addition.

The Land Management Team felt that it would be appropriate to proceed with stopping up, closing and conveying to the adjoining landowners only the portion that exceeds the 66 feet width requirement and allows for a 66 feet in width of the travelled road to remain in City ownership.

The interested property owners have property which borders the subject portion of the road allowance. As a result, pursuant to the City 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 landowner, to merge with their existing parcels.

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 2018-20, as amended, an appraisal is not required for road allowances being sold to an adjacent owner, provided the minimum price set out in Schedule C of By-Law 2018-20, in this case being \$15.00 per a linear foot of road allowance, is recovered.

The Land Management Team recommends setting the value of the subject property at the higher of the appraised value or the minimum set price of \$15.00 per linear foot of road allowance.

Other Alternatives Considered:

Council may decide not to sell the portion of road allowance and derive no financial benefit whatsoever. That would be inconsistent with past practice and is not recommended in this circumstance.

Council could decide not to require an appraisal and dispose of the subject portion of the road allowance for the minimum price of \$15.00 per linear foot of road allowance. Should Council decide to proceed to dispose of the property using the price of \$15.00 per linear foot, consideration for the subject portion of road allowance is calculated at approximately \$814.40. This is not recommended in this circumstance, given that Council has suggested the City is not capitalizing on the disposal of land through the set prices outlined within the By-Law 2018-20. Requiring an appraisal to ensure that the City is obtaining the best price for the land is more beneficial for the general tax-payer.

Alignment to Strategic Priorities

The recommendations set out in this Report align with the strategic priority of Good Government and more specifically to the effective management of the municipal building and land portfolio.

Financial/Operation Impacts:

The parties will be asked to enter into a conditional Agreement of Purchase and Sale with a non-refundable \$1,000.00 deposit to cover initial advertising 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.

The road allowance would be sold to the adjacent land owner for no less than the minimum set price of \$15.00 per linear foot (based on 66-foot width).

If Council sets the price of land at the higher of the appraised value and the minimum set price of \$15.00 per linear foot of road allowance, the City will receive a minimum net revenue of approximately \$814.40, which will be placed in the Property Development Reserve.

Consultations:

The Land Management Team (previously the Land Management Committee)

Attachments:

Appendix A – Location Map



Appendix A -
Location Map

Appendix B – Map



Appendix B - Map

Appendix C – Aerial Photo



Appendix C - Aerial
Map

Appendix D – Plan



Appendix D - Plan
57R-3525

Department Head email: rcarlson@kawarthalakes.ca

Department Head: Robyn Carlson

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