



Committee of the Whole Report

Report Number: RS2022-031

Meeting Date: May 3, 2022

Title: **Proposed Surplus Declaration, Closure and Sale of a Portion of Road Allowance and Shoreline Road Allowance adjacent to 31 and 39 Fox Beach Lane, Carden**

Description: Proposed Sale of a Portion of Road Allowance Legally Described as Road Allowance between Concession 3 and 4, Lying South of Part 1 on 57R-8100, in the Geographic Township of Carden, City of Kawartha Lakes and the Shoreline Road Allowance adjacent to 31 and 39 Fox Beach Lane

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

Recommendations:

That Report RS2022-031, **Proposed Surplus Declaration, Closure and Sale of a Portion of Road Allowance and Shoreline Road Allowance adjacent to 31 and 39 Fox Beach Road, Carden**, be received;

That the subject property, being a portion of the road allowance and shoreline road allowance adjacent to 31 and 39 Fox Beach Lane, Carden and legally described as Road Allowance between Concession 3 and 4, Lying South of Part 1 on 57R-8100, in the Geographic Township of Carden, City of Kawartha Lakes, be declared surplus to municipal needs;

That the closure of the portion of road allowance and shoreline road allowance to the adjoining landowners be supported, in principal, 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 Council set the value of the interior road allowance at the higher of the appraised value or the minimum set price of \$15.00 per linear foot of road allowance;

That Council set the value of the shoreline road allowance at the higher of the appraised value or the minimum set price of \$23.00 per linear foot of shoreline road allowance adjacent to a lake;

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

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

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

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

That this recommendation be brought forward to Council for consideration at the next Regular Council Meeting.

Background:

The Land Management Team received a request from the owner of the property located at 29 Fox Beach Lane, Carden, to purchase a portion of the shoreline road allowance that is adjacent to their property.

The Land Management Team reviewed the immediate area of Fox Beach Lane, Carden, and noticed encroachments on the road allowance leading to water adjacent to 31 and 39 Fox Beach Lane, Carden. The Team was supportive of proceeding with selling the road allowance leading to water to resolve the permanent encroachments on the road allowance leading to water and the shoreline road allowance.

Public Notice advertising the potential surplus declaration and sale of the subject road allowance leading to water and shoreline road allowance was completed by newspaper circulation in the Kawartha Lakes This week on the 12th, 19th, and 26th days of August, 2021. During this three-week advertising period, notice was also posted in the City's website. Realty Services did receive public comments regarding concerns with the proposed closure and sale of the subject road allowance and shoreline road allowance.

Municipal Law Enforcement received a complaint on or about the 7th day of March, 2022, regarding a garage and other structures limiting the access to the water. There is an alternative access to the water in the area being adjacent to the municipal address 323 Lake Dalrymple Road (identified on the attached map within Appendix B and C as a circle). Municipal Law Enforcement completed a site visit and spoke with the owners of 31 and 39 Fox Beach Lane, Carden. Municipal Law Enforcement has been in contact with the complainant updating the status of the enforcement.

Realty Services received the deposits to proceed with the purchases in March and April, 2022.

The purpose of this report is to advise Council that the Land Management Team 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 and shoreline road allowance to the adjoining landowner.

Rationale:

The Land Management Team has determined that this portion of the road allowance is not required for municipal purposes because the road allowances adjacent are privately owned.

The Land Management Team felt the sale would be best to rectify the encroachment issue given that a substantial garage is encroaching onto the road allowance. The City received a concern from a resident who did not support the proposed sale as they want to maintain the ability to access the water. An alternative access to water is present adjacent to 323 Lake Dalrymple Road, Carden (identified as a circle on Appendix B and C).

Shoreline road allowances exist on many lakes within the City Kawartha Lakes. Although many of these allowances were never opened as public municipal roads, they remain public property. Recreational and residential property owners of "lakefront" property often do not own their lots right up to the water's edge. In many circumstances, the adjacent property owner has encroached onto this space and utilized it as a lot addition. In this area there have been sections of the shoreline road allowance that have been previously stopped up, closed and conveyed to adjoining landowners. Accordingly, the Land Management Team felt that it would be appropriate to proceed with stopping up, closing and conveying the subject portion of shoreline road allowance to the adjacent landowner.

As per section 4.04 of By-Law 2018-20, as amended, an appraisal is not required for closed road allowances being sold to an adjacent landowner, as long as the minimum price set out in Schedule C of By-Law 2018-20, in this case being \$23.00 per linear foot of shoreline road allowance adjacent to a lake and \$15.00 per linear foot of interior road allowance, is recovered. In order to net a higher return for the taxpayer, 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 \$23.00 per linear foot of shoreline road allowance adjacent to a lake and \$15.00 per linear foot of interior road allowance.

Other Alternatives Considered:

Council may decide not to sell the shoreline road allowance or interior road allowance and derive no financial benefit whatsoever. That would be inconsistent with past practice and is not recommended in these circumstances because an encroaching garage is present on the road allowance. Also, the City does not have access to the unopened road allowance adjacent to 31 and 39 Fox Beach Lane, Carden, legally described as Road Allowance between Concession 3 and 4, Lying South of Part 1 on 57R-8100, in the Geographic Township of Carden, City of Kawartha Lakes, because the adjacent roads are private.

Council could decide not to require an appraisal and dispose of the subject portion of shoreline road allowance for the minimum set price of \$23.00 per linear foot of shoreline road allowance adjacent to a lake and \$15.00 per a linear foot of interior road

allowance. Should Council decide to proceed to dispose of the property using the price of \$23.00 per linear foot and \$15.00 per a linear foot, consideration for the subject portion of shoreline road allowance and road allowance is calculated as approximately \$14,513.54. This is not recommended in this circumstances, given that Council has expressed the City is not capitalizing on the disposal of surplus land. Requiring an appraisal will ensure that the City is obtaining the best price for the land that creates a transaction that, while still advantageous to the purchaser, is more beneficial to the general taxpayer.

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 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.

If Council sets the price of the land at the higher if the appraised value or the minimum set price of \$23.00 per linear foot of shoreline road allowance adjacent to a lake and \$15.00 per linear foot of interior road allowance, the City will receive a minimum net revenue of approximately \$14,513.54, which will be placed in the Property Development Reserve.

Consultations:

Land Management Team

Attachments:

Appendix A – Location Map



Appendix A -
Location Map.pdf

Appendix B – Map



Appendix B -
Map.pdf

Appendix C – Aerial



Appendix C -
Aerial.pdf

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Department Files: L06-21-RS013 and L06-21-RS014