



## Committee of the Whole Report

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**Report Number:** RS2022-033

**Meeting Date:** June 7, 2022

**Title:** **Proposed Surplus Declaration, Closure and Sale of a Portion of Road Allowance Adjacent to 69 Rose Street, Pleasant Point**

**Description:** Proposed Surplus Declaration, Closure and Sale of a Portion of Road Allowance adjacent to 69 Rose Street, Pleasant Point, City of Kawartha Lakes, and legally described as Lane E on Plan 123

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

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### Recommendation(s):

**That** Report RS2022-033, **Proposed Surplus Declaration, Closure and Sale of a Portion of Road Allowance Adjacent to 69 Rose Street, Pleasant Point, City of Kawartha Lakes**, be received;

**That** the subject property, being a portion of road allowance adjacent to 69 Rose Street, Pleasant Point, City of Kawartha Lakes, and legally described as Lane E on Plan 123, City of Kawartha Lakes, be declared surplus to municipal needs;

**That** the closure of a portion of road allowance to the adjoining landowner 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;

**That** Council set the value of land at the higher of the appraised value or the minimum set price of \$15 per linear foot of road allowance;

**That** the sale be conditional upon the purchaser installing fencing to the City's satisfaction, should the City retain land to the West of the purchased property;

**Department Head:** \_\_\_\_\_

**Financial/Legal/HR/Other:** \_\_\_\_\_

**Chief Administrative Officer:** \_\_\_\_\_

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

**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 69 Rose St., Pleasant Point, to purchase the portion of road allowance that is adjacent to their property.

The Land Management Team reviewed this request at its meeting on the 12<sup>th</sup> day of July, 2021 and declined because it was a road allowance leading to water in accordance with direction per CR2001-1025 and CR2004-148, in line with the considerations required by Council Policy CP2018-020.

At the Council Meeting of February 17, 2004 Council adopted the following resolution:

**CHR2004-35**

***Moved by Councillor R. McGee, seconded by Councillor Jack,***

***RESOLVED THAT*** Report LMC2004-02, “Shoreline Road Allowances and Road Allowances Leading to Water” and a subsequent Memorandum from Richard Danziger be received;

***THAT*** road allowances leading to water be held in public ownership;

***THAT*** shoreline road allowances will be considered for sale as per the current policy, on an individual basis upon receipt of a written request; and

***THAT*** staff report back to Committee on the true market value of the lands being disposed of.

***Moved by Councillor Polito, seconded by Councillor Marsh,***

***RESOLVED THAT*** this matter be referred back to Committee for deliberation.

**Motion to refer put and DEFEATED**

**The original motion was put and CARRIED CR2004-148**

Council Policy CP2018-020, “Consolidated Regulation of Disposition of Municipal Real Property”, states:

- 8.01 **Request to Purchase:** Council has declared, by Resolution CR2001-1025, that unopened road allowances leading to water shall be retained by the municipality.

Upon receipt of a request to purchase an unopened road allowance leading to water the applicant shall be advised that Council is not prepared to consider declaring any unopened road allowances that lead to water as surplus to municipal needs. Exceptions may be considered where alternate access to water in the immediate vicinity can be provided.

At the Committee of the Whole Meeting of October 5, 2021, Council adopted the following resolution:

COW2021-09.4.1

**Encroachment Associated with 69 Rose Street, Pleasant Point**

Peter Clark

Peter Clark provided an overview of his request to purchase a portion of the unopened road allowance adjacent to 69 Rose Street in Pleasant Point. Mr. Clark advised that the building on 69 Rose Street encroaches onto the unopened road allowance and that acquiring the unopened road allowance will resolve the encroachment and will allow future renovations of the property.

**CW2021-222**

**Moved By** Councillor Dunn

**Seconded By** Councillor Ashmore

**That** the deputation of Peter Clark, **regarding the Encroachment Associated with 69 Rose Street, Pleasant Point**, be received; and

**Carried**

**CW2021-223**

**Moved By** Councillor Richardson

**Seconded By** Councillor Elmslie

**That** the request from Peter Clark, regarding the acquisition of the unopened road allowance to 69 Rose Street, Pleasant Point, be referred to Realty Services Staff for review and report back by the end of Q4, 2021; and

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

**Carried**

**CR2021-667**

**Moved By** Councillor Yeo

**Seconded By** Deputy Mayor O'Reilly

**That** Report RS2021-050, **Proposed Disposition of Lane Leading to Jessie Avenue - Adjacent to 69 Rose Street, Pleasant Point**, be received.

**Carried**

At the Committee of the Whole Meeting of December 14, 2021, Council adopted the following resolution:

**CR2021-668**

**Moved By** Councillor Yeo

**Seconded By** Councillor Ashmore

**That** Staff be directed to commence the public notification process to stop up, close and sell a portion of Lane E on registered plan number 123, being the easternmost entrance/exit to Jessie Avenue, located adjacent to the West lot line of 69 Rose Street; and

**That** the sale be conditional upon the purchaser installing fencing to the City's satisfaction and at its own expense to delineate the easterly and westerly boundaries of the portion of the Lane remaining for public passage post-sale.

**Carried**

Public Notice advertising the potential surplus declaration and sale of the subject road allowance was completed by newspaper circulation in the Kawartha Lakes This week on the 7<sup>th</sup>, 14<sup>th</sup>, and 21<sup>st</sup> days of April, 2022. During this three-week advertising period, notice was also posted on the City's website. Realty Services did not receive any public comments or concerns with regards to the proposed closure and sale of the subject road allowance.

The purpose of this report is for Council to be made aware that Realty Services has proceeded with advertising and 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. This report addresses that direction.

### **Rationale:**

Council has directed the sale to rectify a side yard encroachment, in response to a deputation. A sufficient amount of land will remain in the City ownership post sale, to continue to give connectivity to Jessie Avenue, an unmaintained waterfront trail / natural space. The delineation of the property boundaries with fencing, along with signage to be provided by Public Works, will give the public notice of the location of this access point.

The interested party owns 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 landowner.

The subject road allowance does lead to water, however, Council directed staff to proceed with the sale. Therefore, the stop up, closure, and sale received permission for an exemption to Section 8.00 of By-Law 2018-020, as amended.

As per section 4.04 of By-Law 2018-020, 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 2018-020, in this case being \$15.00 per linear foot of interior road allowance, is recovered. However, 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 of the minimum set price of \$15.00 per linear foot of interior 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 Council's direction to staff to proceed with the sale.

Council could decide not to set a price that is higher than the minimum price set by By-Law 2018-020 and dispose of the subject portion of road allowance for the minimum price of \$15.00 per linear foot of interior road allowance (based on 66-foot width). Should Council decide to proceed to dispose of the property using the price of \$15.00 per linear foot of interior road allowance, consideration for the subject portion of road allowance is calculated as approximately \$1,966.80. This is not recommended in this circumstance, given that the purchaser stands to gain financial benefit by adding the subject portion of road allowance to their adjacent property. Setting a higher price

created a transaction that, while still advantageous to the purchaser, is more beneficial to the general taxpayer.

## **Alignment to Strategic Priorities**

The recommendation set out in this report align with the strategic plan 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 at the higher of the appraised value of the minimum set price of \$15.00 per linear foot of interior road allowance, the City will receive a minimum net revenue of approximately \$1,966.80, which will be placed in the Property Development Reserve.

## **Consultations:**

Land Management Team

## **Attachments:**

Appendix A – Location Map



Appendix A -  
Location Map - 33.p

Appendix B – Map



Appendix B - Map -  
33.pdf

Appendix C – Aerial Map



Appendix C - Aerial  
- 33.pdf

## Appendix D – Jessie Avenue and Access



Appendix D - Jessie  
Ave and Access.pdf

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**Department File:** L06-17-RS016