



Committee of the Whole Report

Report Number: RS2023-006

Meeting Date: January 10, 2023

Title: **Proposed Surplus Declaration, Closure, and Sale of a Portion of Road Allowance adjacent to 67 Rose Street, Lindsay**

Description: Proposed Surplus Declaration, Closure, and Sale of a Portion of Road Allowance legally described as Part of Lane E on Plan 123, in the Geographic Township of Fenelon, City of Kawartha Lakes, being Part of PIN: 63275-0126 (LT)

Author and Title: Laura Carnochan, Law Clerk – Realty Services

Recommendations:

That Report RS2023-006, **Proposed Surplus Declaration, Closure, and Sale of a Portion of Road Allowance adjacent to 67 Rose Street, Lindsay**, be received;

That the subject property, being a portion of road allowance adjacent to 67 Rose Street, Lindsay and legally described as Part of Lane E on Plan 123, in the Geographic Township of Fenelon, City of Kawartha Lakes, being Part of PIN: 63275-0126 (LT), be declared surplus to municipal needs;

That the closure and sale of the 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 (including a condition that the subject portion of road allowance merge with the purchaser's adjacent property on closing);

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 interior road allowance (calculated at \$3.72 per linear foot, as the \$15.00 per linear foot is based on a 66-foot width and the subject property is approximately 16.17 feet wide);

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 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 required;

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:

At the Committee of the Whole Meeting of April 5, 2022, Council made the following recommendations:

CW2022-086

That the deputation of Valerie Hazlett Parker, **regarding a Request to Purchase a Portion of the Road Allowance Adjacent to 67 Rose Street, Pleasant Point**, be received.

Carried

CW2022-104

That the Memorandum from Councillor Ashmore and Councillor Elmslie, **regarding the Purchase of Unopened Road Allowance at 67 Rose Street, Pleasant Point**, be received;

That subject property, being the remaining portion of the unopened road allowance adjacent to 67 Rose Street, be declared as surplus to municipal needs; and

That Staff be directed to commence the process to stop up and close the said portion of the unopened road allowance.

Carried

These recommendations were adopted at the Regular Council meeting of April 19, 2022 by CR2022-120.

This report addresses that direction.

The Land Management Team received a request from the owner of the property municipally known as 67 Rose Street, Lindsay to purchase the portion of road allowance that is adjacent to their property.

The Land Management Team reviewed this request at its meeting on March 14, 2022 and denied the request due to a previous Council Resolution (CR2022-688) which required that the subject portion of road allowance be retained by the City for "public passage". The applicant appealed the decision to Council and made a deputation at the Committee of the Whole meeting on April 5, 2022. Councillor Elmslie and Councillor Ashmore also presented a Memo at the April 5, 2022 Committee of the Whole meeting,

in support of the applicant's request being permitted to go through the disposition process. Following the applicant's deputation and Councillors' Memo, Council made the above-noted resolutions.

Public Notice advertising the potential surplus declaration and sale of the subject portion of shoreline road allowance was completed by newspaper circulation in the Kawartha Lakes This Week on the 8th, 15th, and 22nd days of December, 2022. During this three-week advertising period, notice was also posted on the City's website. Realty Services received one anonymous concern with regards to the proposed closure and sale of the subject lands. The resident expressed several concerns, including:

1. Selling this portion of road allowance will make the remaining four access points busier;
2. Walkers will need to backtrack to an access point instead of being able to walk a loop from Jessie Avenue, down this portion of road allowance, and onto Rose Street;
3. Potential for trespassing on private property along the remaining access points; and
4. Selling this portion of road allowance will mean one less access point for non-lakeside property owners.

Rationale:

The balance of the access path is in the process of being sold and will merge with the adjacent lot, 69 Rose Street. Sale of this portion of the access path, being the balance in City ownership, would cut off the easternmost access to/from "Jessie Avenue"; a waterfront unmaintained natural walking path. The Land Management Team had determined that this portion of the road allowance was required for municipal purposes. However, Council subsequently resolved that the property could proceed through the disposition process.

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, as per CW2021-104 Council has provided an exemption to section 8.00 of By-Law 2018-020, as amended, which

encourages the City to retain road allowances leading to water for the purpose of public access to water.

The Agreement of Purchase and Sale will specify that the subject portion of road allowance merge with the purchaser's adjacent property upon closing. This will prevent a separately conveyable parcel of land, with no development potential, from being created.

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 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 or the minimum set price of \$15.00 per linear foot of interior road allowance.

Other Alternatives Considered:

Council may decide not to sell the 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 shoreline road allowance for the minimum price of \$15.00 per linear foot of interior road allowance. Should Council decide to proceed to dispose of the property using the price of \$15.00 per linear foot (calculated at \$3.72 per linear foot, as the \$15.00 per linear foot is based on a 66-foot width and the subject property is approximately 16.17 feet wide), consideration for the subject portion of road allowance is calculated as approximately \$401.76. This is not recommended in this circumstance, 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 and 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 following strategic priority:

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

Financial 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 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 interior road allowance (calculated at \$3.72 per linear foot, as the \$15.00 per linear foot is based on a 66-foot width and the subject property is approximately 16.17 feet wide), the City will receive a minimum net revenue of approximately \$401.76, which will be placed in the Property Development Reserve.

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

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