



Committee of the Whole Report

Report Number:	RS2023-021
Meeting Date:	March 7, 2023
Title:	Proposed Surplus Declaration, Closure, and Sale of a Portion of Road Allowance between 447 & 451 Cambray Road, Cambray
Description:	Proposed Surplus Declaration, Closure, and Sale of a Portion of Road Allowance legally described as Oak Street on Plan 108 between Mill Street and Plan 57R-9303, in the Geographic Township of Fenelon, City of Kawartha Lakes (PIN: 63164-0379 (LT))
Author and Title:	Laura Carnochan, Law Clerk – Realty Services

Recommendations:

That Report RS2023-021, **Proposed Surplus Declaration, Closure, and Sale of a Portion of Road Allowance between 447 & 451 Cambray Road, Cambray**, be received;

That, notwithstanding Section 8.01 of By-Law 2018-020, as amended, the subject property, being a portion of road allowance between 447 Cambray Road and 451 Cambray Road, Cambray and legally described as Oak Street on Plan 108 between Mill Street and Plan 57R-9303, in the Geographic Township of Fenelon, City of Kawartha Lakes (PIN: 63164-0379 (LT)), be declared surplus to municipal needs;

That the closure of the portion of road allowance and sale to the adjoining landowner(s) 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 conditional Agreements of Purchase and Sale (including a condition that the subject portion of road allowance merge with each purchaser's adjacent property on closing);

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

That, if one of the adjacent landowners decides to no longer proceed with the sale, the entirety of the subject portion of road allowance be sold to the remaining purchaser;

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;

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:

The Land Management Team received a request from the owner of the property municipally known as 447 Cambray Road, Cambray to purchase the portion of road allowance that is adjacent to their property.

The Land Management Team reviewed this request at its meetings on March 14, 2022 and May 9, 2022 and had no objections to the request. The Team was of the opinion, however, that the owner of the other adjacent property, 451 Cambray Road, should be contacted to determine if they had any interest in purchasing a portion of the road allowance (as it is standard practice to offer all adjoining landowners the option to purchase).

While reviewing the request to purchase, the Land Management Team noted a number of encroachments located on the road allowance. Accordingly, the Team initially offered to split the road allowance in such a way as to ensure that all the encroachments belonging to 447 Cambray Road would become part of their property upon sale (see Appendix D). However, 451 Cambray Road advised that they would prefer a more equitable split. As this is in alignment with standard precedent (to offer half of a road allowance to each adjacent landowner), and the encroachments on the road allowance are unauthorized (i.e. were not permitted by License Agreement), Staff are recommending that the road allowance be split in half between the two adjoining landowners (see Appendix B and Appendix C). 447 Cambray Road have been notified and advised that they would prefer the initial proposed split, as it will allow all encroaching items to remain in their current locations.

Public Notice advertising the potential surplus declaration and sale of the subject portion of road allowance was completed by newspaper circulation in the Kawartha Lakes This Week on the 9th, 16th, and 23rd days of February, 2023. 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 lands.

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 to the adjoining landowners.

Rationale:

The Land Management Team has determined that this portion of the road allowance is not required for municipal purposes.

The potential purchasers own property that 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 landowners.

The subject road allowance does lead to a creek and could be considered a road allowance leading to water. Section 8.01 of By-Law 2018-020, as amended, states "that unopened road allowances leading to water shall be retained by the municipality", however, the creek runs exclusively through private properties and is not considered a navigable waterway. The City does have an easement over a private property which allows City staff to access the creek for the purpose of maintenance, if required.

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 to sell the road allowance according to the Land Management Team's first proposal (set out as Appendix D), which would ensure that all encroachment belonging to 447 Cambray Road will be located on their own property upon closing. However, this would create an inequitable split of land and would be inconsistent with past practice. If Council does proceed with this option, Staff recommend that all costs associated with the transaction be split according to the percentage of land each purchaser will gaining (e.g. 75/25).

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, consideration for the subject portion of road allowance is calculated as approximately \$3,975.00. This is not recommended in this circumstance, given that Council has expressed the City is not capitalizing on the disposal of surplus land when it utilizes the set minimum rates. Requiring an appraisal will ensure that the City is obtaining the fair 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/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 each 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, the City will receive a minimum net revenue of approximately \$3,975.00, 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

Appendix D – Aerial Map (Initial LMT Proposal)



Appendix D - Aerial
Map (Initial LMT Proj

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