



Committee of the Whole Report

Report Number: RS2023-022

Meeting Date: March 7, 2023

Title: **Proposed Surplus Declaration, Closure, and Conveyance of a Portion of Shoreline Road Allowance adjacent to 399 Black River Road, Washago**

Description: Proposed Surplus Declaration, Closure, and Conveyance of a Portion of Shoreline Road Allowance adjacent to Lot 22-23, Concession 12, North of Black River, in the Geographic Township of Dalton, City of Kawartha Lakes, In Exchange for a Portion of the Forced Road Known as Black River Road

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

Recommendations:

That Report RS2023-022, **Proposed Surplus Declaration, Closure, and Conveyance of a Portion of Shoreline Road Allowance adjacent to 399 Black River Road, Washago**, be received;

That the subject property, being a portion of shoreline road allowance adjacent to 399 Black River Road, Washago and legally described as Part of the Shoreline Road Allowance in Front of Lot 22-23, Concession 12, North of Black River, in the Geographic Township of Dalton, City of Kawartha Lakes, be declared surplus to municipal needs;

That the closure of the portion of shoreline 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 shoreline road allowance merge with the purchaser's adjacent property on closing);

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

That Council convey the subject land for nominal consideration, in exchange for the City acquiring a portion of the forced road known as Black River Road for nominal consideration;

That the City pay for all costs associated with the transaction;

That staff be directed to commence the process to stop up and close the said portion of 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 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 municipally known as 399 Black River Road, Washago to exchange the portion of forced road running through their property for title to the shoreline road allowance that is adjacent to their property.

The Land Management Team reviewed this request at its meeting on September 12, 2022 and had no objections to the request.

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 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 conveyance 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 conveyance of the requested portion of the shoreline road allowance to the adjoining landowner in exchange for a portion of the forced road known as Black River Road.

Rationale:

Shoreline road allowances exist on many lakes within the City of 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 various portions of the shoreline road allowance have already been stopped up, closed and conveyed to adjoining landowners. Accordingly, the Land Management Team determined that it would be appropriate to proceed with stopping up, closing and conveying the subject portion of shoreline road allowance to the adjacent landowner.

The applicant's property, 399 Black River Road, is currently made up of two separate parcels, which are separated by Riley Creek (see Appendix B and Appendix C). Given the location of Black River Road through the properties, it is effectively four separate parcels, separated by travelled road (East and West) and Riley Creek (North and

South). Currently, there is one building located on the Western-most portion of the property, North of Black River Road. Upon closing, the property will become four separate parcels. The subject portion of shoreline road allowance is also separated by Riley Creek, and will merge with the two adjacent properties to the North. Appendix D shows the resultant parcels, post conveyance.

Black River Road is a combination road (partially located on City-owned property and partially located on private properties). The subject portion of the road (outlined in green on Appendix B and Appendix C) is located on private property; however, it is fully maintained on a year-round basis by the City¹. The portion of Black River Road to the immediate East of this section is in City ownership. Accordingly, the Land Management Team determined that it was appropriate to be in City ownership.

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 \$20.00 per linear foot of shoreline road allowance adjacent to a river, is recovered. However, in this case, as the City is proposing to acquire a portion of the forced road known as Black River Road, Staff is recommending that the requirement for an appraisal be waived and the land be exchanged for nominal consideration. This would be in compliance with section 66(1)(1) of the Municipal Act, 2001, as amended, which states:

66(1) If, before January 1, 2003, a highway was opened on land in the place of all or part of an original road allowance and compensation was not paid for the land, the owner of the land appropriated for the highway or the successor in title to the owner is entitled to the following:

1. If that person owns the land abutting on the allowance, the owner is entitled to the soil and freehold of the original road allowance and to a conveyance of the original road allowance.

The Land Management Team is also recommending that the City pay for all costs associated with the transaction, as part of the compensation for the road having been built through private property, presumably without any compensation being paid (no records of same being found pursuant to a records search).

Other Alternatives Considered:

¹ The westerly portion of Black River Road is maintained, up to Lewisham Road at the East

Council may decide not to approve the stop up, closure, and conveyance of the shoreline road allowance in exchange for the subject portion of Black River Road. This is not recommended, as this section of Black River Road is fully maintained by the City and it would be beneficial to be in City ownership.

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. All costs of the transaction will be paid for by the City (estimated at \$5,300.00 - \$12,300.00, but could be higher depending on the cost of the Reference Plan), to be drawn from the Operating Budget of the Realty Services Division.

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 – Map (Resultant Parcels – Post Conveyance)



Appendix D - Map
(Resultant Parcels - I

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