

Committee of the Whole Report

Report Number: RS2023-023

Meeting Date: March 7, 2023

Title: **Proposed Surplus Declaration, Closure, and Sale of Portions of Road Allowance adjacent to 21 Blue Bay Lane, 31 Blue Bay Lane, and 79 Rainbow Road, Fenelon Falls**

Description: Proposed Surplus Declaration, Closure, and Sale of a Portion of Road Allowance legally described as Part of Lot 26, Concession 8, being Part 2 on Plan 57R-9936 (PIN: 63159-0445 (LT)) and Road Allowance between Concession 7 and Concession 8 between Cameron Lake and Highway 598 Except Part 6 on Plan 57R9936 (PIN: 63159-0449 (LT)), in the Geographic Township of Fenelon, City of Kawartha Lakes

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

Recommendations:

That Report 2023-023, **Proposed Surplus Declaration, Closure, and Sale of Portions of Road Allowance adjacent to 21 Blue Bay Lane, 31 Blue Bay Lane, and 79 Rainbow Road, Fenelon Falls**, be received;

That, notwithstanding Section 8.01 of By-Law 2018-020, as amended, the subject property, being a portion of road allowance adjacent to 21 Blue Bay Lane, 31 Blue Bay Lane, and 79 Rainbow Road, Fenelon Falls and legally described as Part of Lot 26, Concession 8, being Part 2 on Plan 57R-9936 (PIN: 63159-0445 (LT)) and Road Allowance between Concession 7 and Concession 8 between Cameron Lake and Highway 598 Except Part 6 on Plan 57R9936 (PIN: 63159-0449 (LT)), in the Geographic Township of Fenelon, City of Kawartha Lakes, be declared surplus to municipal needs;

That the sale of the portion of road allowance to the adjoining landowners be supported, in principle, in accordance with the provisions of By-Law 2018-020, as

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

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 each purchaser's adjacent property on closing);

That, if one of the adjacent landowners decides to no longer proceed with the sale, that portion of the road allowance be sold to the remaining purchasers, if appropriate (otherwise, to be retained by the City);

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 these recommendations 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 21 Blue Bay Lane, Fenelon Falls to purchase the portion of road allowance that is adjacent to their property.

The Land Management Team reviewed the request at its meeting on July 12, 2021, and did note that public access to the parcel appears limited, given that the applicant's property is part of a condominium and the travelled road (Blue Bay Lane) is a private road owned/maintained by the condo corporation. The only public access is off Highway 35, through an unimproved/untravelled road allowance. However, the Land Management Team felt that it could not support a sale of the subject road allowance due to the fact that the road allowance leads to water and a title search of the road allowance revealed that the land had been specifically acquired by the City in 2011 in order to "maintain public access to Cameron Lake".

The applicant then made a deputation requesting that Council reconsider the Land Management Team's decision at the Committee of the Whole meeting of September 7, 2021. Council made the following recommendation:

CW2021-192

Moved By Councillor Elmslie

Seconded By Councillor Dunn

That the deputation of Candace Chartier and Patrick Chartier, **regarding a request to purchase the road allowance adjacent to 21 Blue Bay Lane, Fenelon Falls**, be received and referred to Staff for review and report back by the end of Q1, 2022; and

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

Carried

This recommendation was adopted by Council at the Regular Council meeting of September 21, 2021 by CR2021-417.

Accordingly, Realty Services brought forward Report RS2021-048 (attached as Appendix D) at the Council meeting of December 14, 2021, which outlined the Land Management Team's decision for denying the request.

As per the following Council Resolution, Council received the Report, but did not overturn the Land Management Team's decision:

CR2021-646

That Report RS2021-048, **Road Allowance adjacent to 21 Blue Bay Lane, Fenelon Falls**, be received.

Carried

Subsequently, Councillor (now Mayor) Elmslie brought forward a Memorandum at the Council meeting of April 19, 2022 requesting that Council consider approving the request to purchase the road allowance, given the limited public access and the liability issues created for the applicant when members of the public use the privately-owned condo road to access the subject road allowance.

At the Council Meeting of April 19, 2022, Council adopted the following resolution:

CR2022-122

Moved By Councillor Elmslie

Seconded By Councillor O'Reilly

That the Memorandum from Councillor Elmslie, **regarding the application from Patrick and Candace Chartier, 21 Blue Bay Lane, Fenelon Falls**, be received;

That the unopened road allowance adjacent to 21 Blue Bay Lane, Fenelon Falls, be declared as surplus to municipal needs and that as part of the disposition of the lands Staff review all options with the adjoining landowners.

Carried

This Report addresses that direction.

Subsequent to the April 19, 2022 Council meeting, Realty Services reached out to all adjoining landowners (four in total, including the applicant/deputant) to inquire as to whether they were interested in purchasing their respective adjoining portion of road allowance. All four property owners have confirmed their interest in proceeding with their respective purchases.

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.

Rationale:

The subject road allowance does lead to water and a title search revealed that the land had been specifically acquired by the City in 2011 in order to "maintain public access to Cameron Lake". As per the above-noted Council Resolution CR2022-122, Council has determined that the road allowance is not required for municipal purposes, given the limited public access.

The interested parties own 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 landowners.

Two of the interested parties own properties (21 Blue Bay Lane and 31 Blue Bay Lane) within a condominium (see Victoria Vacant Land Condominium Plan No. 26 attached as Appendix E). Accordingly, the lands set out to be sold to 21 Blue Bay Lane (shown in purple on Appendix B and Appendix C) and to 31 Blue Bay Lane (shown in yellow on Appendix B and Appendix C) will become part of their respective Units (Unit 1 and Unit 4 respectively).

The remaining two interested parties own properties (79 Rainbow Road and Part Lot 26, Concession 8, Fenelon) in Fee Simple ownership. Accordingly, the lands set out to be sold to 79 Rainbow Road (shown in red on Appendix B and Appendix C) and to Part Lot 26, Concession 8, Fenelon (shown in blue on Appendix B and Appendix C) will merge with the respective adjacent properties. The proposed resultant land parcels, post sale, as set out on Appendix F.

It should be noted that Appendix B, being an aerial map, does not accurately reflect the property boundaries and is intended only as a visual aid to illustrate the approximate additions to the adjacent properties. Of specific note, no portions of the travelled condo road (labelled on Appendix C) fall under the City's jurisdiction and will not be subject to the sale.

Due to the inequitable split of land (necessary in this case to extend each purchaser's lot line), Staff recommend that all costs which can be shared amongst the purchasers (i.e. advertising, Reference Plan, and appraisal) be split according to the percentage of land each purchaser will gaining (e.g. 40/30/20/10).

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, consideration for the subject portion of road allowance is calculated as approximately \$8,325.00. 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:

Each party 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

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Page 7 of 8

minimum net revenue of approximately \$8,325.00, 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 – Report RS2021-048 Road Allowance adjacent to 21 Blue Bay Lane



Appendix D -
RS2021-048 Road Allowance

Appendix E – Victoria Vacant Land Condominium Plan No. 26



Appendix E -
Victoria Vacant Land Condominium Plan No. 26

Appendix F – Resultant Land Parcels (Post Sale)



Appendix F -
Resultant Land Parcels (Post Sale)

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Department File: L06-21-RS023 & L06-22-RS027 & L06-22-RS036 & L06-22-RS037