



Council Report

Report Number: RS2024-032

Meeting Date: July 23, 2024

Title: **Request to Purchase a Portion of Road Allowance adjacent to 49 Gardiner Shore Avenue, Fenelon Falls**

Description: Background Information Regarding the Applicant's Request to Purchase a Portion of Road Allowance and the Land Management Team's Decision

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

Recommendation:

That Report RS2024-032, **Request to Purchase a Portion of Road Allowance adjacent to 49 Gardiner Shore Avenue, Fenelon Falls**, be received.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

At the Committee of the Whole meeting of May 7, 2024, Council made the following recommendation:

CW2024-119

Moved By Councillor Warren

Seconded By Deputy Mayor McDonald

That the deputation of Gary Stone, **regarding a Request to Purchase the Portion of Road Allowance Adjacent to 49 Gardiner Shore Road**, be received; 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 Council meeting of May 21, 2024 by CR2024-265.

While the resolution did not require a Report back to Council by Staff, there was a subsequent request to Realty Services to provide Council with the background of the Land Management Team's decision in relation to this matter. This Report addresses that request.

Rationale:

At its meeting of June 11, 2018, the Land Management Committee (now Team) reviewed a request to purchase a portion of road allowance adjacent to 49 Gardiner Shore Avenue, Fenelon Falls. An aerial map and topographic map of the subject property are attached as Appendix A and Appendix B, respectively.

The applicant noted that they wished to purchase the subject portion of road allowance because their well is located there. It was further noted that the well had been in that location since 1974.

While the subject portion of road allowance is wider than the standard, approximately 120 feet as opposed to the standard 66 feet, the Land Management Team were of the opinion that the entire width of the road allowance should be retained by the City in order to facilitate construction of a proper turnaround (should this be proposed in the future).

The Team did advise, however, that they would be agreeable to offering a License Agreement to recognize the encroaching well and to allow for its continued location within the road allowance.

The decision was communicated to the applicant by letter sent via e-mail on June 26, 2018.

A subsequent letter was sent to the applicant on November 29, 2018 by regular mail, enclosing a License Agreement for execution. A follow-up letter was sent on February 19, 2019, however, a signed copy of the License Agreement was never returned. As the City became aware of the encroachment through the applicant's request to purchase and not through a complaint, enforcement of the Encroachment By-law (through licensing or removal) was not pursued.

Other Alternatives Considered:

Council could decide to allow the request to proceed through the disposition process. This would be achieved by adding the following recommendation above:

That Staff be directed to proceed with the request to purchase a portion of road allowance adjacent to 49 Gardiner Shore Avenue, Fenelon Falls as per the disposition procedures set out in CP2021-033 Disposal of Real Property Policy and By-Law 2018-020 Disposition of Municipal Real Property, as amended.

Proceeding through the disposition process requires advertising and a Council Report to obtain a declaration that the land is surplus to municipal needs. If a surplus declaration is obtained, Staff would proceed through the remainder of the disposition process, which requires a Reference Plan of Survey to be obtained, the entering into of an Agreement of Purchase and Sale, a By-Law to be passed by Council to stop up and close the subject portion of road allowance, and the closing of the sale.

Alignment to Strategic Priorities:

The recommendations set out in this Report align with the following strategic priority:

- Good Government
 - Ensure municipal assets are well maintained and well managed

Financial/Operation Impacts:

None, if the Land Management Team's decision is upheld.

If the request proceeds through the disposition process, 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.

The City will receive a net revenue of approximately \$14,000.00 (based on the set price of \$2.50 per square foot of interior road allowance), which would be placed in the Property Development Reserve.

Consultations:

Land Management Team

Attachments:

Appendix A – Aerial Map



Appendix A - Aerial
Map (RDAL adj 49 G:

Appendix B – Map



Appendix B - Map
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Department Head: Robyn Carlson

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