



Committee of the Whole Report

Report Number: RS2024-054

Meeting Date: November 5, 2024

Title: **Proposed Surplus Declaration, Closure and Sale of a Portion of Road Allowance Adjacent to 49 Gardiner Shore Avenue, Fenelon Falls**

Description: Proposed Surplus Declaration, Closure, and Sale of a Portion of Road Allowance legally described as Private Drive Plan 294 Except Parts 1-4 on Plan 57R-6561; S/T R444322, A61336, R358042, R196270, R272773, R216094, R212006, R397108, R467427; Kawartha Lakes (Part of PIN: 63160-0087 (R))

Author and Title: Laura Carnochan, Acting Manager – Realty Services

Recommendations:

That Report RS2024-054, **Proposed Surplus Declaration, Closure and Sale of a Portion of Road Allowance Adjacent to 49 Gardiner Shore Avenue, Fenelon Falls**, be received;

That the subject property, being a portion of road allowance adjacent to 49 Gardiner Shore Avenue, Fenelon Falls and legally described as Private Drive Plan 294 Except Parts 1-4 on Plan 57R-6561; S/T R444322, A61336, R358042, R196270, R272773, R216094, R212006, R397108, R467427; Kawartha Lakes (Part of PIN: 63160-0087 (R)), be declared surplus to municipal needs;

That the closure of the portion of road allowance and sale 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 set price of \$2.50 per square foot of interior road allowance;

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 these recommendations be brought forward to Council for consideration at the next Regular Council Meeting.

Background:

At the Council Meeting of July 23, 2024, Council adopted the following resolution:

CR2024-399

Moved By Councillor Perry

Seconded By Councillor Warren

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

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.

Carried

This report addresses that direction.

As outlined in Report RS2024-032, at its meeting of June 11, 2018, the Land Management Team reviewed a request to purchase a portion of road allowance adjacent to 49 Gardiner Shore Avenue, Fenelon Falls (due to the location of an encroaching well and septic tank). An aerial map and topographic map of the subject property are attached as Appendix A and Appendix B, respectively.

The Land Management Team did not support the request, as they 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 applicant appealed the Land Management Team's decision by way of deputation to Council on May 7, 2024 and Council subsequently adopted CR2024-399 (above) and directed that the request proceed through the disposition process.

Public Notice advertising the potential surplus declaration and sale of the subject portion of road allowance was completed by posting said notice on the City of Kawartha Lakes' website commencing October 15, 2024. Realty Services did not receive any public comments or concerns with regards to the proposed closure and sale of the subject lands.

Rationale:

The Land Management Team remains of the opinion that the subject portion of road allowance should be retained by the City in order to allow continued use of the City owned portion of the applicant's driveway as a turnaround or to accommodate construction of a proper turnaround (should this be proposed in the future as a road improvement to the municipally maintained and assumed road).

The City currently uses the City owned portion of the applicant's driveway as a turnaround for maintenance equipment. If this area is sold, the City will be required to turn around on private property or construct a turnaround on the retained portion of the road allowance, which would require the City to expend funds which are not currently been budgeted for. Further, the retained area would not be of sufficient width to construct a proper turning basin (which requires a minimum width of 34 metres or 111.5 feet).

There are no restrictions (e.g. on title, pursuant to the Municipal Act, 2001, etc.) to proceeding with a sale of the subject portion of road allowance, however, it should be noted that the road allowance is subject to a number of rights-of-way. These rights-of-way were historically granted when the road was a private road and were not extinguished when the road was transferred to the former Corporation of the Township of Fenelon. The rights-of-way allow passage for third parties over the entirety of the road allowance and will carry forward upon closing. The purchaser will have no recourse if a third party drives over the well located within the area, nor will he be able to fence or otherwise block off the purchased area.

The subject portion of road allowance is located within a section which is wider than standard (approximately 120 feet wide as opposed to 66 feet), and the City should retain a minimum road width of 111.5 feet, with only any area in excess of that width being sold to the applicant. The applicant has provided a sketch outlining the area they are proposing to purchase, which is attached as Appendix C. The area proposed to be purchased by the applicant is marked as "Severed", save and except the portion outlined in red, the sale of which would create an illogical lot configuration. Prior to the sale, a Reference Plan will need to be created and Staff will confirm with the surveyor that the City will retain a road width of 89 feet southeast of the subject portion.

Other Alternatives Considered:

Council could decide to retain the entire width of the road allowance, as recommended by the Land Management Team, and offer a License Agreement to the applicant to permit their encroachments to continue to be located within the road allowance.

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:

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.pdf

Appendix B – Map



Appendix B -
Map.pdf

Appendix C – Surveyor's Sketch



Appendix C -
Surveyor's Sketch.pc

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Department File: L06-18-RS044