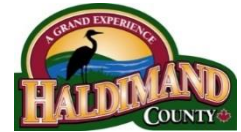


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# HALDIMAND COUNTY

## Report CS-SS-16-2018 Road Closure of Parts of Britannia and Onondaga Streets, Cayuga



For Consideration by Council in Committee on September 18, 2018

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### OBJECTIVE:

To authorize staff to proceed with the road closure and conveyance request for parts of Britannia Street and Onondaga Streets in Cayuga.

### RECOMMENDATIONS:

1. THAT Report CS-SS-16-2018 Road Closure of Parts of Britannia and Onondaga Streets, Cayuga be received;
2. AND THAT the subject road allowances, as shown in orange on Attachment #1 to Report CS-SS-16-2018 and legally described as follows, be closed and declared surplus to all County needs: Part of PIN # 38224-0258(LT), being Britannia Street, Township of North Cayuga West of Grand River, between Onondaga Street and River Street, Haldimand County; Part of PIN # 38224-0259(LT), being Onondaga Street, Township of North Cayuga West of Grand River, between Part 4 18R-5640 and HC76311, Haldimand County; and PIN # 38224-0260(LT), being Britannia Street, Township of North Cayuga West of Grand River south of Part 3 18R-5640, northeast of HC76311, Haldimand County;
3. AND THAT the subject road allowances, as shown in orange on Attachment #1 to Report CS-SS-16-2018 and legally described as follows, be sold to Frederick and Betsy Smith for the total purchase price of \$3,450, plus HST, and costs of the closure and conveyance, excluding survey fees: part of PIN # 38224-0258(LT), being Britannia Street, Township of North Cayuga West of Grand River, between Onondaga Street and River Street, Haldimand County; Part of PIN # 38224-0259(LT), being Onondaga Street, Township of North Cayuga West of Grand River, between Part 4 18R-5640 and HC76311, Haldimand County; and PIN # 38224-0260(LT), being Britannia Street, Township of North Cayuga West of Grand River south of Part 3 18R-5640, northeast of HC76311, Haldimand County;
4. AND THAT public notice of the proposed closure and conveyance be given;
5. AND THAT By-laws be passed to authorize the closure and conveyance;
6. AND THAT the Mayor and Clerk be authorized to execute all necessary documents.

**Prepared by:** Sandra Marsh, Property Coordinator

**Reviewed by:** Dana McLean, Supervisor, Risk Management & Legal Services

**Respectfully submitted:** Karen General, CPA, CGA, General Manager of Corporate Services

**Approved:** Karen General, CPA, CGA, Deputy Chief Administrative Officer

## **EXECUTIVE SUMMARY:**

The County has received a request to close and convey parts of Britannia and Onondaga Streets in Cayuga. Staff have determined that some of these lands need to be retained for municipal purposes and are recommending that a smaller portion of the subject lands be sold to the applicants, Frederick and Betsy Smith. Staff have determined that this smaller portion of the road allowances can be deemed surplus to the County's needs and divested in accordance with the established process for road closures and conveyances.

## **BACKGROUND:**

The County is in receipt of a request from Frederick and Betsy Smith to purchase parts of Britannia Street and Onondaga Street in Cayuga. The subject lands are untraveled sections of road that abut the northerly boundary of the lands currently owned by the Smiths, the southerly boundary of the new Cayuga Bridge Trail lands, a small piece of land owned by Albert Marshall, and the westerly boundary of Maple Road. A location map of the area is shown as Attachment #1.

## **ANALYSIS:**

Frederick and Betsy Smith own both abutting properties south of the subject lands and approached the County to purchase the subject lands in order to have the lands added to their property located at 49 Maple Road, Cayuga. The Smiths provided the County with the non-refundable administration fee to start the road closure and conveyance process. A portion of the Smith's driveway, flowerbed and septic system are currently located on the County owned lands.

In order to determine the feasibility of closure of the subject road, staff circulated a "Road Closure Inquiry Form" to Hydro One, Union Gas, Bell Canada, Rogers Cable, Grand River Conservation Authority and the following Haldimand County Divisions: Building Controls & By-Law Enforcement, Community Development & Partnerships, Economic Development & Tourism, Emergency Services, Engineering Services, Environmental Services, Facilities & Parks Operations, Planning & Development, and Roads Operations.

The Roads Operations Division advised that a portion of the lands will need to be retained as a turn around at the end of Maple Road for operational purposes. The lands needing to be retained by the County are identified in green on Attachment #1. The Facilities & Parks Operations Division agreed with the suggested retained land boundaries, as this land links the upper trail elevation to street frontage and could be required for future trail maintenance. The Community Development & Partnerships Division also agreed with the suggested portion of lands to be retained for an emergency access. It should be noted that there are no current plans to have an open stairway access to the trail from this location given the topography. Staff from all affected Divisions met on site to determine the dimensions of the retained lands, as identified in green on Attachment #1. Staff support the sale of a smaller portion of land to the Smiths, being identified in orange on Attachment #1.

In reviewing the road closure request, staff, in keeping with the County's past practice, notified all abutting property owners of the expression of interest received and the possible closure and conveyance. Other than the Smiths and the County, Albert Marshall is the only other abutting land owner, with lands to the north. Mr. Marshall donated other lands in this location to the County for trail purposes, however, retained ownership to a small parcel. Mr. Marshall has advised that he supports a sale of the subject lands to the Smiths. Staff have ensured that the portion of lands being retained by the County will also allow continued frontage onto road allowance for the Marshall property, avoiding the creation of a landlocked lot.

When a request to purchase a road allowance is received by staff, prior to proceeding, the applicants are advised that the land, if deemed surplus, will be sold for no less than the appraised value, plus all costs of closure and conveyance. The purpose of the appraisal is to estimate the market value of the subject property based on the most probable “best use” at the time. The applicants will be required to bear all other costs of the closure including, but not limited to, applicable taxes, advertising, appraisal fees and legal costs.

The County’s past practice is to require the applicants to pay for a certified appraisal to determine the value of the property. The cost to the applicants of obtaining a certified appraisal is significant at approximately \$2,000 to \$2,500. Where it is expected that the sale of the lands would result in competing interests, it is advisable to obtain a certified appraisal. However, in situations where the only party interested in acquiring the land would be the abutting land owners, staff feel that the County’s 2017 Vacant Land Values Chart is a reasonable alternative to determine the estimated value. If the applicant does not agree with the tool-generated value, they have the option of obtaining an independent certified appraisal at their own cost for Council’s consideration.

When taking into consideration the value of the subject property, Council should keep in mind the following:

- The Vacant Land Values Chart has been used in the past and deemed to be a reasonable tool to predict value in the absence of a competitive marketing or appraisal of the property. The rates in the chart were provided to the County by a licensed local realtor, but reflect general valuations from 2017 and are not tailored to the location/specific attributes of individual properties;
- The subject lands are almost completely regulated by the Grand River Conservation Authority and have very limited development potential;
- This section of untraveled road is a “dead end” and is not constructed as a road;
- Disposal of this land will eliminate the necessity for an Encroachment Agreement and the potential liability associated with private use on public lands (i.e. septic tank);
- There is no reasonable expectation that anyone other than the abutting landowners would be interested in purchasing the subject lands;
- All County property is sold as is/where is and the purchasers will sign an Acknowledgement confirming this.

Staff have generated an estimated value of \$3,450 for this 0.23 acre parcel of land using the County’s Vacant Land Values Chart. The applicants have been made aware of the suggested value and the requirement of Council approval. The applicants are in agreement with the suggested value should Council approve the conveyance of the land to them.

For the above reasons, staff recommend closing this portion of road allowance, declaring the lands surplus and conveying the lands to the Smiths for \$3,450 on the condition that the property will be added to the abutting lands currently owned by the Smiths. The typical land transaction provisions will apply, including the “as is/where is” condition, and any necessary easements. As well, the Smiths will be responsible for certain costs of the closure and conveyance, including legal costs.

If the closure and conveyance to the Smiths is not approved, the encroachment onto County lands will need to be addressed. One option is to enter into an Encroachment Agreement with the Smith’s to address the location of the driveway, septic system and flowerbed, and have them provide necessary insurance to the municipality on an ongoing basis. The other option is to require the encroachment to be removed and relocated onto private property.

## **FINANCIAL/LEGAL IMPLICATIONS:**

Staff recommend that the lands, totalling 0.23 acres, be sold to the abutting owners, for a purchase price of \$3,450, plus HST, and all routine costs of closure and conveyance with the exception of the survey. Haldimand County absorbed the cost of the survey given the need to clearly identify the retained lands necessary for ongoing municipal purposes. The net proceeds of the sale will be contributed to the Land Sales Reserve in accordance with County Policy.

In accordance with the County's Notification Policy, a proposed road closure and conveyance is to be advertised in the local newspaper prior to consideration of a By-law.

## **STAKEHOLDER IMPACTS:**

The Roads Operations Division, Facilities and Parks Operations Division and Community Development and Partnerships Division have provided information for this report.

## **REPORT IMPACTS:**

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

## **ATTACHMENTS:**

1. Map of the Area