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# HALDIMAND COUNTY

## Report LSS-01-2019 Road Closure and Conveyance of Part of South Coast Drive, Selkirk



For Consideration by Council in Committee on January 15, 2019

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### OBJECTIVE:

To authorize Staff to proceed with the road closure and conveyance request for part of South Coast Drive, Selkirk.

### RECOMMENDATIONS:

1. THAT Report LSS-01-2019 Road Closure and Conveyance of Part of South Coast Drive, Selkirk be received;
2. AND THAT the subject road allowance, as shown in yellow on Attachment #1 to LSS-01-2019 and legally described as follows, be closed and declared surplus to all County needs: Part of PIN # 38202-0130(LT), being Part of Lot 15, Concession 1, Walpole, Haldimand County;
3. AND THAT the subject road allowance, as shown in yellow on Attachment #1 to LSS-01-2019 and legally described as Part of PIN # 38202-0130(LT), being Part of Lot 15, Concession 1, Walpole, Haldimand County, be sold to the abutting owners Michelle Jull-Oliveira and Jorge Oliveira for a purchase price of \$100 plus HST, plus costs of the closure and conveyance, and that easements be given for existing infrastructure;
4. AND THAT public notice of the proposed closure and conveyance be given;
5. AND THAT a by-law be presented for enactment 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:** Cathy Case, General Manager of Corporate & Social Services

**Approved:** Craig Manley, MCIP, RPP, Deputy Chief Administrative Officer

### EXECUTIVE SUMMARY:

The County has received a request to close and convey part of South Coast Drive in Selkirk. Staff have determined these lands are not required for municipal purposes and 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 Michelle Jull-Oliveira and Jorge Oliveira to close and purchase part of South Coast Drive in Selkirk. The subject lands about the northerly boundary of the

lands currently owned by the Applicants. The request to purchase these lands is made to address the existing encroachments of the dwelling, cistern, septic tank and driveway currently located on the road allowance. A location map of the subject lands is shown as Attachment #1.

## **ANALYSIS:**

Michelle Jull-Oliveira and Jorge Oliveira own the abutting property to the south of the subject lands and have approached the County to purchase the subject lands in order to address the existing encroachments and to have the lands added to their property located at 706 South Coast Drive, Selkirk. The Applicants have provided the County with the non-refundable administration fee to start the road closure and conveyance process. A portion of the Applicant's dwelling, driveway, cistern and septic system are currently located on the County-owned lands. Part of the cistern is also located on privately owned lands to the west, currently owned by Randy Desnoyers. If this closure and sale is authorized by Council, the Applicants have advised that it is their intent to relocate the cistern to the newly-created front yard area of the 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 & Municipal Enforcement Services, Community Development & Partnerships, Economic Development & Tourism, Emergency Services, Engineering Services, Environmental Operations, Facilities, Parks, Cemeteries & Forestry Operations, Planning & Development, and Roads Operations.

Hydro One and Bell Canada advised they have infrastructure located in the vicinity of the subject lands and, if sold, will require easements if the survey evidence identifies the infrastructure is located within the boundaries of the subject lands.

The Planning & Development Division advised that any existing non-conformities would be extinguished as a result of this purchase from the County and would require a Minor Variance Application to address deficiencies.

The Roads Operations Division has reviewed the request and has indicated that there will be no impact on the open road allowance and support the closure and conveyance.

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. The abutting property to the west is owned by Randy Desnoyers, who has advised that he supports a sale of the subject lands to the Applicants on the condition that the cistern is removed from his property. The County is not able to compel the Applicants to move the cistern, however, as mentioned previously in this Report, the Applicants have advised of their intent to relocate the cistern. No other abutting owners came forward with concerns.

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 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 Estimated 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:

- If sold, the road allowance will merge with the abutting lands owned by the Applicants. The subject lands are completely regulated by the Long Point Region Conservation Authority and have very limited development potential;
- Since the Applicant's property is too small to accommodate the encroachments within the current property boundaries, disposal of this land is the only practical way to eliminate the encroachments;
- There is no reasonable expectation that anyone other than the abutting landowners would be interested in purchasing the subject lands;
- Sale of this property would eliminate the County's risk and liability associated with use of this portion of the road allowance;
- 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 \$100 for this 0.01 acre parcel of land using the County's Vacant Land Estimated 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 Michelle Jull-Oliveira and Jorge Oliveira for \$100 on the condition that the property will be added to the abutting lands currently owned by them and that easements are given for existing infrastructure. The typical land transaction provisions will apply, including the "as is/where is" condition, and any necessary easements. The Applicants will also be responsible for all costs of the closure and conveyance, including survey and legal costs, advertising, appraisal fees and applicable taxes. Additionally, the Applicants will be responsible for all future Planning Application costs and all costs incurred for the relocation of the cistern.

If the closure and conveyance to the Applicants is not approved, the encroachment onto County lands will need to be addressed. Entering into an Encroachment Agreement for roadway encroachments is not considered a best practice; therefore, it is feasible that the Applicants will be required to remove all encroachments, at their cost.

## **FINANCIAL/LEGAL IMPLICATIONS:**

Staff recommend that the lands, totalling 0.01 acres, be sold to the abutting owners, for a purchase price of \$100, plus HST, and all costs of closure and conveyance. 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, Building & By-Law Division and Planning & Development Division have provided information for this report.

## **REPORT IMPACTS:**

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

## **ATTACHMENTS:**

1. Map of the Subject Lands