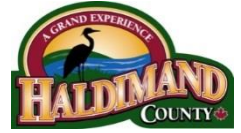

HALDIMAND COUNTY

Report LSS-07-2019 Unsolicited Offer from Charman, Part of Lane and Part of Ann Street, Nanticoke



For Consideration by Council in Committee on February 26, 2019

OBJECTIVE:

To provide details of an unsolicited offer to purchase part of a closed lane and part of Ann Street (closed) in Nanticoke.

RECOMMENDATIONS:

1. THAT Report LSS-07-2019 Unsolicited Offer from Charman, Part of Lane and Part of Ann Street, Nanticoke be received;
2. AND THAT Memorandum LSS-M03-2019 Additional Information Related to Report LSS-07-2019 be received as information and remain confidential;
3. AND THAT the subject property legally described as PIN # 38249-0154(LT) being Part of Lane, Plan 344 and Part of Ann Street, Plan 344, closed by HC211003, being Part 2 on 18R-4144; Haldimand County, be declared surplus to the needs of the municipality;
4. AND THAT staff be authorized to proceed with the sale of PIN # 38249-0154(LT) being Part of Lane, Plan 344 and Part of Ann Street, Plan 344, closed by HC211003, being Part 2 on 18R-4144; Haldimand County, in accordance with Option #____, as outlined in Memorandum LSS-M03-2019;
5. AND THAT public notice of the pending sale be published in the local newspaper;
6. AND THAT the Mayor and Clerk be authorized to execute all necessary documents;
7. AND THAT once a final sale agreement has been reached, a by-law be presented to authorize the sale.

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: Donald G. Boyle, Chief Administrative Officer

EXECUTIVE SUMMARY:

The County has received an unsolicited offer to purchase municipally-owned lands in Nanticoke. These lands are public roads that were formally closed by Court Order in 1993, but have been occupied by the abutting owners since the time of the closures. The abutting owners, Matthew and Cassandra Charman, have requested ownership of the subject lands based on their possession and occupation since the date of the closures. County staff have determined that the lands can be declared surplus as there is no known future need to retain for public use. Closed session Memorandum LSS-M03-2019 provides an analysis of the options available to Council.

BACKGROUND:

Staff have received an unsolicited offer, including the applicable fee, from Matthew Jordon Charman and Cassandra Mae Charman to purchase vacant County-owned land in Nanticoke. A location map of the subject property is shown as Attachment #1. The subject property has a total area of approximately 0.04 acres and is legally described as PIN # 38249-0154(LT) being Part of Lane, Plan 344 and Part of Ann Street, Plan 344, closed by HC211003, being Part 2 on 18R-4144; Haldimand County. The subject lands were formally closed as public roads by an Order of the Ontario Court General Division dated April 16, 1993, which is registered on title as Instrument No. 201003. The subject lands are landlocked and are only accessible by the abutting owners. The Charmans own the abutting property located at 133 Rainham Road in Nanticoke.

The Charmans have requested the lands be conveyed to them for nominal consideration based on their possessory title claim and have provided staff with a Declaration of Possession which is included as Attachment #2. A possessory title claim occurs when the occupant of the land can produce evidence by way of a declaration that they have been in undisturbed, continuous possession and occupation of the subject land for ten years or more. The sworn Declaration of Possession provided by the Charmans proves continued exclusive possession and occupation of the subject lands since 1993 by the current and previous owners of 133 Rainham Road in Nanticoke. The Charmans have approached the County with the request for ownership in order to avoid a costly court proceeding to gain title to the subject lands.

If the purchase is approved by Council, the Charmans intend to add the subject lands to their adjoining property, which is shown as 133 Rainham Road on Attachment #1.

ANALYSIS:

In order to determine the feasibility of the sale of this property, staff contacted all County Divisions to determine if there is a municipal need for the lands, in whole or in part, or if there are restrictions or provisions that should be placed on the sale. The Planning & Development Division provided feedback. All other comments received support the sale, therefore staff recommend that the lands be declared surplus to the needs of the municipality, as the property is not required for municipal purposes.

Planning & Development Division comments:

The property owned by the Charmans (133 Rainham Road, Nanticoke) is located within the Hamlet of Nanticoke, however the subject land is located outside of the Hamlet of Nanticoke. Typically, lands outside of the Hamlet boundary are not to be added to lots within Hamlets, as agricultural lands are to be preserved in perpetuity and backyard sprawl into agricultural lands is not to occur. Lands outside of the Hamlet can only be added into the Hamlet boundary through a municipal comprehensive review where there is justification and Provincial approval.

However, in this case, given the size and location of the surplus lands, the surplus lands do not appear to be developable. As such, the subject lands would simply be added to an existing lot containing existing residential development. Since the subject lands do not appear to be farmed or beneficial to the adjacent farmlands, staff have no objections to the request from the Charmans. The proposed sale also serves to simplify ownership of the property into a single land holding making the use of the lands predictable.

If the sale is approved by the County, any existing non conformities spoiled by the lot change (e.g. setbacks) would need to be addressed through a minor variance application.

The solicitor for the purchaser is aware of the Planning comments.

Staff have reviewed the offer and have prepared confidential Memorandum LSS-M03-2019, which provides additional information regarding options for the disposal of this property, for discussion during the Closed session of the Council in Committee meeting of February 26, 2019. Staff will then proceed in accordance with Council's direction.

FINANCIAL/LEGAL IMPLICATIONS:

The application fee of \$675 has been received by the County for the unsolicited offer to purchase.

If sold, the property would generate property tax revenue and would no longer be the responsibility or liability of the County.

STAKEHOLDER IMPACTS:

Not applicable

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Map of the Subject Lands
2. Unsolicited Offer from Charman
3. Declaration of Possession