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# HALDIMAND COUNTY

## Report LSS-25-2019 Road Closure and Conveyance of Part of Ouse Street, Cayuga



For Consideration by Council in Committee on October 29, 2019

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### OBJECTIVE:

To authorize staff to proceed with the road closure and conveyance request for part of Ouse Street, Cayuga.

### RECOMMENDATIONS:

1. THAT Report LSS-25-2019 Road Closure and Conveyance of Part of Ouse Street, Cayuga be received;
2. AND THAT the subject road allowance, as shown in hatched yellow on Attachment #1 to LSS-25-2019 and legally described as: Part of PIN # 38224-0126(LT) being Part of Ouse Street, Village of Cayuga east of Grand River between Talbot Street and Norton Street except HC270356; Haldimand County be closed and declared surplus to all County needs;
3. AND THAT the subject road allowance, as shown in hatched yellow on Attachment #1 to LSS-25-2019 and legally described as Part of PIN # 38224-0126(LT) being Part of Ouse Street, Village of Cayuga east of Grand River between Talbot Street and Norton Street except HC270356; Haldimand County, be sold to the abutting owner O.B.B. Properties Inc. for a purchase price of \$8,145 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 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:** Cathy Case, General Manager of Corporate & Social Services

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

### EXECUTIVE SUMMARY:

The County has received a request to close and convey part of Ouse Street in Cayuga. 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 O.B.B. Properties Inc. (Fred Morison) to close and purchase part of Ouse Street in Cayuga. The subject lands abut the easterly boundary of the lands currently owned by the Applicant. The County entered into an Encroachment Agreement with a prior owner of the abutting lands to address the encroachment of the building and stairs onto the County-owned road allowance. This agreement was authorized by The Corporation of the Town of Haldimand By-Law 475/85. The subject request is to purchase the encroachment lands to allow for future development of the Applicant's lands. A location map of the subject lands is shown as Attachment #1.

## **ANALYSIS:**

O.B.B. Properties Inc. owns the abutting property to the west of the subject lands. A portion of the Applicant's building and stairs are currently located on the County-owned subject lands. O.B.B. Properties Inc. has approached the County to purchase the subject lands in order to address the existing encroachments and to have the lands added to its property located at 1 Ouse Street, Cayuga. The Applicant has provided the County with the non-refundable administration fee to start the road closure and conveyance process. If this closure and sale is authorized by Council, the Applicant has advised that it is its intent to develop the property into office space and a restaurant facility. While the owner has indicated an interest in redeveloping the property, the acquisition addresses the existing encroachments and does not pre-determine the outcome of any future proposals.

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. All divisions support a sale on the condition that easements be given for existing infrastructure.

The Environmental Operations Division advised that there is a storm outfall through the property which may require an easement if a sale is authorized by Council.

The Engineering Services Division advised there may be infrastructure located within the proposed road closure area, which would require an easement if a sale is authorized by Council.

The Planning & Development Division advised that any development would need to be supported by the Grand River Conservation Authority, including any permits required.

The Roads Operations Division requires that a one metre strip of land adjacent to the roadway (forming part of the new road allowance boundary) remain County property for road maintenance purposes. This is achieved in the proposed request.

In reviewing the road closure request, staff, in keeping with the County's past practice, attempted to notify any abutting property owners of the expression of interest received and the possible closure and conveyance. The only other abutting property (to the north of the subject lands) was obtained in 1915 by Colin Campbell Gibson. There is no current information regarding an address for Mr. Gibson or any heirs of his estate and therefore no notice was able to be provided.

When a request to purchase a road allowance is received by staff, prior to proceeding the applicant is 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 applicant to pay for a certified appraisal to determine the value of the property. The cost to the

applicant 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 owner, staff feel that the County's 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:

- If sold, the identified section of road allowance will merge with the abutting lands owned by the Applicant;
- The subject lands are completely regulated by the Grand River Conservation Authority and may require permits for any future development;
- There is no reasonable expectation that anyone other than the abutting landowner (the Applicant) would be interested in purchasing the subject lands;
- Sale of this property would eliminate the County's risk and liability associated with ownership of this portion of the road allowance;
- All County property is sold as is/where is and the purchaser will sign an Acknowledgement confirming this.

Staff have generated an estimated value of \$8,145 for this 0.0543 acre parcel of land, which is zoned Hazard Land and General Industrial, using the County's Vacant Land Values Chart. The Applicant has been made aware of the suggested value, the potential easements necessary and the requirement of Council approval. The Applicant is 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 O.B.B. Properties Inc. for \$8,145 on the condition that the property will be added to the abutting lands currently owned 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 Applicant 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 Applicant will be responsible for any required Planning Application costs.

If the closure and conveyance to the Applicant 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 Applicant will be required to remove all encroachments, at its cost.

## **FINANCIAL/LEGAL IMPLICATIONS:**

Staff recommend that the lands, totalling approximately 0.0543 acres, be sold to the abutting owner, for a purchase price of \$8,145, 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 Planning & Development Division, Roads Operations Division, Environmental Operations Division and Water & Wastewater Engineering Compliance 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