
HALDIMAND COUNTY

Report LSS-15-2020 Road Closure and Conveyance of Part of Winnieth Street, Caledonia



For Consideration by Council in Committee on October 27, 2020

OBJECTIVE:

To authorize the road closure and conveyance request for parts of Winnieth Street, Caledonia.

RECOMMENDATIONS:

1. THAT Report LSS-15-2020 Road Closure and Conveyance of Part of Winnieth Street, Caledonia be received;
2. AND THAT the subject road allowance, as shown in yellow on Attachment #1 to LSS-15-2020 and legally described as Part of PIN # 38155-0959(LT) being Part of Winnieth Street, Plan 51; Haldimand County, be closed and declared surplus to all County needs;
3. AND THAT the northerly portion of the subject road allowance, as shown in yellow on Attachment #1 to LSS-15-2020 and legally described as Part of PIN # 38155-0959(LT) being Part of Winnieth Street, Plan 51; Haldimand County, be sold to the abutting owners to the north, Daniel Paul Gris and Joanne Evelyn Gris, for a purchase price of \$3,250 plus HST, plus costs of the closure and conveyance, and that easements be given for existing hydro and gas infrastructure;
4. AND THAT the southerly portion of the subject road allowance, as shown in yellow on Attachment #1 to LSS-15-2020 and legally described as Part of PIN # 38155-0959(LT) being Part of Winnieth Street, Plan 51; Haldimand County, be sold to the abutting owners to the south, Douglas Stuart Beemer and Tina Marie Jackson-Beemer, for a purchase price of \$3,250 plus HST, plus costs of the closure and conveyance, and that easements be given for existing hydro and gas infrastructure;
5. AND THAT public notice of the proposed closure and conveyance be given;
6. AND THAT a by-law be passed to authorize the closure and conveyance;
7. AND THAT the Mayor and Clerk be authorized to execute all necessary documents.

Prepared by: Sandra Marsh, Property Coordinator

Reviewed by: Michelle Brandt, 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 parts of Winnieth Street in Caledonia. Staff have determined that these lands are not required for municipal purposes, 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 Daniel Paul Gris and Joanne Evelyn Gris (Gris) and Douglas Stuart Beemer and Tine Marie Jackson-Beemer (Beemer) to close and purchase the most easterly portion of Winnieth Street in Caledonia. The subject lands abut the southerly boundary of the lands currently owned by Gris; the northerly boundary of the lands currently owned by Beemer, are not constructed as a road and do not serve as access to any other properties. A location map of the subject lands is shown as Attachment #1. Gris and Beemer have each requested that a portion of the subject lands be closed and conveyed to them and that the subject lands be added to the lands they currently own.

ANALYSIS:

Daniel Paul Gris and Joanne Evelyn Gris own the abutting property known as 500 Winnieth Street, Caledonia, which is located to the north of the subject lands. Respectively, Douglas Stuart Beemer and Tina Marie Jackson-Beemer own the abutting property known as 522 Caithness Street East in Caledonia, located to the south of the subject lands. The Beemer's currently have a shed located on the southerly portion of the County-owned subject lands, creating an encroachment, which would be addressed by their ability to purchase the subject lands. Both applicants have provided the County with the non-refundable administration fee to start the road closure and conveyance process. Should the closure and sale be authorized by Council, the applicants have advised that it is their intent to add the lands to the properties they currently own as shown on Attachment #1.

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. As a result of the circulation, all divisions support a sale on the condition that easements be given for existing hydro and gas infrastructure.

The Planning & Development Division provided the following comments:

The properties are currently zoned Hazard Land (HL) in the Town of Haldimand Zoning By-law 1-H 86 and are recommended to be zoned Urban Residential Type 1 (R1—A) with a hazard land overlay in the forthcoming Haldimand County Comprehensive Zoning By-law. Both properties contain existing single detached dwellings, which are considered to be legal non-conforming given the Hazard Land (HL) zone (dwellings are not permitted); frontage requirements on an open municipal road; as well as servicing provisions for the property at 500 Winnieth Street. Addition of the Winnieth road allowance to both parcels would nullify the non-conforming status of the lots as the property configuration would be changed. Lot frontage is considered as the shorter lot line abutting a street which would be approximately 10 metres (33 feet) on Winnieth. Also, 500 Winnieth Street has partial municipal services – where full municipal services are intended for properties within an urban area. Therefore in order to legalize the properties following the addition of the road allowance lands, a Minor Variance application (complex) is required. A Minor Variance application (complex) would capture both properties (500 Winnieth Street and 522 Caithness Street East) for the deficiencies and recognize the existing conditions.

The minor variance process takes approximately 2-3 months and the application fees are \$2,309.00.

The application should include:

- *Completed application*

- *Applicable fees*
- *Dimensioned site plan (including septic location on the northern property)*
- *Zoning deficiency form (completed with a Building Inspector)*

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. No other abutting property owner expressed an interest in the subject lands.

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 or a Letter of Opinion from a realtor are reasonable alternatives to determine the estimated value. If the applicant does not agree with the value provided, 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 sections of road allowance will merge with the abutting lands owned by the applicants;
- The subject lands have limited development potential without servicing upgrades;
- There is no reasonable expectation that anyone other than the abutting landowners (the applicants) 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, including the existing encroachment from the Beemer's property;
- All County property is sold as is/where is and the purchaser will sign an Acknowledgement confirming this.

The applicants have provided a Letter of Opinion from a local realtor with an estimated value of \$6,500 for this 0.14 acre parcel of land (Attachment #2), which has limited development potential and easement requirements if sold. The applicants agree with the suggested value and should Council approve the conveyances of land to them, are aware of the potential easements necessary, the requirement of Council approval and future Planning approvals.

For the above reasons, staff recommend closing this portion of road allowance, declaring the lands surplus and conveying the lands to the applicants for a total combined purchase price of \$6,500 (\$3,250 – Gris and \$3,250 – Beemer) on the condition that the properties will be added to the abutting lands currently owned and that easements will be 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 any required Planning application costs.

While it is not considered best practices to do so for roadway encroachments, should the closure and conveyance to the applicant (Beemer) not be approved, the shed encroachment onto County lands will

need to be addressed by way of an Encroachment Agreement or with the requirement that the Beemer's remove the encroachment in its entirety, at their cost. In the case of an Encroachment Agreement, any subsequent planned use of the subject property will need to take into consideration the location and "approved" use, which would exist by way of the Agreement.

FINANCIAL/LEGAL IMPLICATIONS:

Staff recommend that the lands, totalling approximately 0.14 acres, be sold to the abutting owners for a total combined purchase price of \$6,500, 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 has provided information for this report.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Map of the Subject Property
2. Letter of Opinion