
HALDIMAND COUNTY

Report LSS-01-2021 Road Closure and Conveyance of Part of Mill Avenue, Canborough



For Consideration by Council in Committee on February 9, 2021

OBJECTIVE:

To authorize staff to proceed with the road closure and conveyance request for part of Mill Avenue in Canborough.

RECOMMENDATIONS:

1. THAT Report LSS-01-2021 Road Closure and Conveyance of Part of Mill Avenue, Canborough be received;
2. AND THAT Memorandum LSS-M02-2021 Additional Information Related to Report LSS-01-2021 be received as information and remain confidential;
3. AND THAT the subject road allowance, as shown in yellow on Attachment #1 to LSS-01-2021, and legally described as Part of PIN # 38141-0101(LT) Part Lot 14, Concession 1 Canborough; Part Lots 1 and 2, north side Main Street, Plan 8851 being a travelled road also known as Mill Street, designated as Part 2 on 18R-7830; Haldimand County, be closed and declared surplus to all County needs;
4. AND THAT the subject road allowance, as shown in yellow on Attachment #1 to LSS-01-2021, and legally described as PIN # 38141-0101(LT) Part Lot 14, Concession 1 Canborough; Part Lots 1 and 2, north side Main Street, Plan 8851 being a travelled road also known as Mill Street, designated as Part 2 on 18R-7830; Haldimand County, be sold to the abutting owners for a purchase price of \$14,850 plus HST, plus costs of the closure and conveyance;
5. AND THAT public notice of the proposed closure and conveyance be given;
6. AND THAT a by-law be presented for enactment to authorize the closure and conveyance;
7. AND THAT the lands legally described as Part of PIN # 38141-0104(LT) Part of Lots 2 and 3, north side Main Street, Plan 8851, designated as Part 6 on 18R-7830, Haldimand County, as shown in blue on Attachment #1 be conveyed to The Corporation of Haldimand County for road purposes for a purchase price of \$1.00 plus HST;
8. 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 part of Mill Avenue in Canborough. 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. Closed Session Memorandum LSS-M02-2021 provides additional information for Council.

BACKGROUND:

The County is in receipt of a request from Minor Bros. Farm Supply Ltd. / 2182570 Ontario Limited to close and purchase Part of Mill Avenue in Canborough. The subject lands run through the lands currently owned by the applicants and are maintained by the applicants. The request to purchase these lands is made in order to address ownership to this road which, although technically a public roadway, does not provide public access and has been used and maintained by the applicants for a number of years. In consideration of a closure and sale to the applicants, a portion of land at the end of Mill Avenue will need to be retained for site line purposes and to avoid an uneven road boundary. A location map of the subject land is shown as Attachment #1 which illustrates the intended outcome.

ANALYSIS:

Minor Bros. Farm Supply Ltd. and related company 2182570 Ontario Limited own all properties abutting Mill Avenue in Canborough and have approached the County to purchase the subject road allowance in order to add it to their property. The applicants have provided the County with the non-refundable administration fee to start the road closure and conveyance process.

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 Capital & Asset Management, Facilities, Parks, Cemeteries & Forestry Operations, Planning & Development, and Roads Operations. No utility easements are required.

The Planning & Development Division provided the following comments:

It appears that Mill Avenue is currently functioning as part of the Minor Bros' site / yard rather than a municipal road. It is planning staff's understanding that Minor Bros keeps their properties in separate ownership for business purposes, however, the properties function as one site / development. It is also our understanding that Mill Avenue (if purchased) will be merged with one of the abutting properties, but all properties will not be merged together.

Since some or all of the properties will lose road frontage, and any existing non-conformities would be extinguished, minor variance application(s) will be required. Further, an abutting property will lose municipal road access and will require passage over private lands (upon the closure/conveyance); consent application(s) will be required to establish access easements. There are fees and conditions of approval which have costs associated with them. If there are any zoning related (permitted use) issues, a zoning amendment may be more appropriate. Given the properties have historically functioned as if Mill Avenue were a private laneway, planning staff have no concerns provided there is no infrastructure / plants in the road that engineering and utility companies are concerned with.

The Applicants have been made aware of staff's comments and the requirement for minor variance application(s). In addition, the Applicants were made aware that access easements may be required if new driveways are not going to be constructed onto Caistorville Road.

With respect to the Planning comments regarding access easements, all necessary access easements have since been completed and are registered on title, in preparation for this application to proceed for Council approval.

The Roads Operations Division has reviewed the request advising that they do not provide maintenance on this road and have confirmed their support of the closure and conveyance. Through a previous road closure request from the same applicants, being Report CS-SS-13-2016, Council authorized the creation of a daylight triangle on the southerly portion of Mill Avenue. This site line needs to be maintained, therefore, the County will obtain ownership of a small portion of the lands at the south end of Mill Avenue from the applicants in order to avoid an uneven road boundary. Attachment #2 is reference plan 18R-7830 which illustrates the suggested outcome of this road closure request.

In keeping with the County's past practice, staff notify all abutting property owners of the expression of interest received and the possible closure and conveyance. As all abutting properties are owned by the applicant or their related company, notice was not required.

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 \$3,000 to \$3,500. Where it is expected that the sale of the lands would result in competing interests, it is advisable to obtain a certified appraisal or an opinion of value. However, in situations where the only party interested in acquiring the land would be the abutting land owners, staff feel that the County's Vacant Land Values Chart is a reasonable alternative to determine the estimated property value. Any applicant who does not agree with the property value has the option of obtaining an independent certified appraisal at their own cost for Council's consideration.

In line with the aforementioned valuation process, the value of the subject lands has been applied with the following considerations:

- If sold, the road allowance will merge with abutting lands owned by the applicants;
- The applicants have been using and maintaining the subject lands for many years. Although appearing as road, the County has not maintained the lands as a roadway;
- There is no reasonable expectation that anyone other than the abutting landowners would be interested in purchasing the subject lands;
- Sale of the lands would transfer 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 \$14,850 for this 0.45 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 applicants for \$14,850, plus HST, on the condition that the property will be added to abutting lands currently owned by them.

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.

FINANCIAL/LEGAL IMPLICATIONS:

Staff recommend that the lands, totalling 0.45 acres, be sold to the abutting owners, for a purchase price of \$14,850, plus HST, plus 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 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
2. Reference Plan 18R-7830