
HALDIMAND COUNTY

Report LSS-02-2021 Road Closure and Conveyance of Part of Lakeshore Road, Dunnville



For Consideration by Council in Committee on February 9, 2021

OBJECTIVE:

To declare a portion of the road allowance known as Part of Lakeshore Road in Dunnville as surplus to the County's needs and to authorize staff to proceed with the road closure and conveyance process.

RECOMMENDATIONS:

1. THAT Report LSS-02-2021 Road Closure and Conveyance of Part of Lakeshore Road, Dunnville be received;
2. AND THAT Part of PIN # 38216-0116(LT), Part of the Road Allowance between Townships of Rainham and South Cayuga, designated as Parts 1, 2, 3 & 4 on reference plan 18R-7908, now Haldimand County and Part of Lot 18, Concession 7, geographic Township of South Cayuga, designated as Parts 6 & 7 on reference plan 18R-7908, now Haldimand County, be stopped up, closed and declared surplus to all County needs;
3. AND THAT Part of PIN # 38216-0116(LT), Part of the Road Allowance between Townships of Rainham and South Cayuga, designated as Part 1 on reference plan 18R-7908, now Haldimand County, be sold to John DiViesti and Donna DiViesti for a purchase price of \$7,000 plus HST and costs of the closure and conveyance;
4. AND THAT Part of PIN # 38216-0116(LT), Part of the Road Allowance between Townships of Rainham and South Cayuga, designated as Parts 2, 3 & 4 on reference plan 18R-7908, now Haldimand County and Part of Lot 18, Concession 7, geographic Township of South Cayuga, designated as Parts 6 & 7 on reference plan 18R-7908, now Haldimand County, be sold to Robert Park for a purchase price of \$11,000 plus HST and costs of the closure and conveyance, reserving an easement over Parts 3 & 6 on 18R-7908 in favour of Haldimand County for existing infrastructure;
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 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 the road allowance known as Lakeshore Road in Dunnville. Staff have determined that these lands are not required for municipal

purposes, can be deemed surplus and divested in accordance with the established process for road closure and conveyance.

BACKGROUND:

The County is in receipt of a request from Robert Park (Park) and John DiViesti and Donna DiViesti (DiViesti) to close and purchase part of Lakeshore Road in Dunnville. Park would like to purchase a portion of the subject road allowance for legal access to Lake Erie and DiViesti would like to purchase part of the subject road allowance and add it to the lands they currently own, resulting in a larger lakefront parcel. The subject lands abut the easterly boundary of the lands currently owned by DiViesti and the shores of Lake Erie. The road allowance is unusually wide in this area with the asphalt portion being near the northerly road boundary. Park and DiViesti have each requested that a portion of the subject lands be closed and conveyed to them as illustrated on Attachment #1.

ANALYSIS:

A member of the public wishing to purchase a County road allowance is required to submit their request with an application fee in order to begin the process. Upon receipt of such a request and subsequent payment, staff circulate the request to a wide variety of stakeholders to ensure that the property is not required and can be declared surplus to the needs of the municipality. Both applicants (Park and DiViesti) have paid the applicable application fee for 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 and the following Haldimand County Divisions: Building Controls & By-Law Enforcement, Community Development & Partnerships, Economic Development & Tourism, Emergency Services, Engineering Services, Environmental Services, Facilities & Parks Operations, Planning, and Roads Operations. Grand River Conservation Authority was also advised. As a result of the circulation, all divisions support a sale on the condition that an easement be given for existing County infrastructure.

Engineering Services and Roads Operations provided the following comments:

The County requires a maintenance easement over an existing culvert to address current maintenance needs and for future culvert replacement. Staff have determined that a 20 foot corridor along the length of Part 1, with access from the outlet to the waters edge will meet current and future needs. The easement agreement is only required for the portion of the road allowance that Park is seeking to purchase.

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 \$3,000 to \$3,500. Where it is expected that the sale of the lands would result in competing interest, 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 or applicant, the Disposal of Surplus Lands Policy considers the County's Vacant Land Values Chart or a Letter of Opinion from a realtor as reasonable 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 lands, Council should keep in mind the following:

- Although appearing as a road, the County does not maintain the lands as a road;
- There is no reasonable expectation that anyone other than the applicants 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;
- The County would be retaining a portion of the waterfront lands which would address any future tourism-related needs (i.e. cycle route rest area);
- All County property is sold as is/where is and the purchasers will sign an Acknowledgement confirming this and disposal of this property will eliminate the associated liability of these lands;

The applicants have provided a Letter of Opinion from a local realtor with an estimated value of \$14,000 - \$18,000 for this 0.15 acre parcel of land (Attachment #3), which has limited development potential and an easement requirement if sold. The applicants agree with the suggested value should Council approve the conveyances of land to them and are aware of the easement requirement. Staff have confirmed that the suggested value meets or exceeds the value contained within the County's confidential Vacant Land Values Chart, and considering the properties are waterfront land, staff are satisfied with the opinion of value provided.

For the above reasons, staff are recommending closing this portion of road allowance, declaring the lands surplus and conveying Part 1 on 18R-7908 to John and Donna DiViesti for a purchase price of \$7,000 plus HST, on the condition that the DiViesti property will be added to the abutting lands currently owned by them. Staff are also recommending closing this portion of road allowance, declaring the lands surplus and conveying Parts 2, 3, 4, 6 & 7 on 18R-7908 to Robert Park for a purchase price of \$11,000 plus HST, on the condition that an easement will be given for existing infrastructure. A copy of reference plan 18R-7908 is included as Attachment #2. 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.

FINANCIAL/LEGAL IMPLICATIONS:

Staff recommend that the lands, totalling approximately 0.15 acres, be sold to the applicants for a total combined purchase price of \$18,000, plus HST, and all costs of closure and conveyance. The net sale proceeds will be placed in 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:

Engineering Services and Roads Operations divisions 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-7908
3. Realtors Opinion of Value