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# HALDIMAND COUNTY

## Report LSS-08-2023 Unsolicited Offer to Purchase Property - Part of the Closed Road - Brant Street East, Cayuga

For Consideration by Council in Committee on May 23, 2023

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### OBJECTIVE:

To provide details of an unsolicited offer to purchase County-owned surplus lands that are part of the closed road, Brant Street East in Cayuga.

### RECOMMENDATIONS:

1. THAT Report LSS-08-2023 Unsolicited Offer to Purchase Property - Part of the Closed Road - Brant Street East, Cayuga be received;
2. AND THAT the surplus property formally known as part of Brant Street East Cayuga, which was previously stopped up and closed by By-Law 242, reconfirmed through By-law 1305/12, shown in yellow on Attachment 1 to Report LSS-08-2023, and legally described as PIN 38230-0084(LT) Brant Street Village of Cayuga East of the Grand River (AKA Brant Street East) between Fishcarrier Street and Johnson Street, Haldimand County, be sold to the abutting land owner, the Applicant, for the purchase price of \$12,600, plus HST plus costs of conveyance inclusive of Haldimand County's legal fees;
3. AND THAT public notice of the proposed conveyance be given;
4. AND THAT a by-law be passed to authorize the conveyance;
5. AND THAT the Mayor and Clerk be authorized to execute all necessary documents.

**Prepared by:** Melissa Lloyd, Property Coordinator

**Reviewed by:** Lori Friesen, Manager of Legal & Support Services

**Approved:** Cathy Case, Acting Chief Administrative Officer

### EXECUTIVE SUMMARY:

The County has received an unsolicited offer to purchase County-owned surplus lands that have been stopped up and closed by by-law; and which were formally known as Brant Street East in Cayuga. A location map of the subject property is shown on Attachment 1. The unsolicited offer is from HML Holdings Ltd. whose property abuts the surplus lands.

### BACKGROUND:

In 1903, the Village of Cayuga passed By-law 242 which was originally intended to stop up, close and convey forty-four (44) streets (or parts of streets) in Cayuga that were in possession of and being occupied by adjoining landowners. Many of the conveyances did not occur although they were believed to have been approved and valid at that time. Based upon a legal opinion, By-law 242 had some ambiguity in confirming if the By-law did stop up and close the roads. As a result, By-law 1305/12 was

passed confirming the intent of By-law 242 to stop up and close the road allowances, as well as to declare the roads surplus to the County. The intent in doing this was to have these former roads ready to transfer to abutting property owners, if ever requested.

In April 2022, staff received an unsolicited offer from HML Holdings Ltd. requesting to purchase County-owned surplus lands, formally known as part of Brant Street East in Cayuga, which was stopped and closed in By-law 242, as identified in yellow hashmarks on Attachment 1. The Applicant owns the adjoining lands to the north and south of the surplus lands (purple hashmarks) and would like to purchase the surplus lands for potential future development. County owned lands about the surplus property on the east and west sides. The unsolicited offer is seeking to purchase these lands noting that a small segment of the property is currently being maintained by the Applicant since a portion of the Applicants parking lot was built on the County land. The Building & Municipal Enforcement Services Division confirmed a permit is not required for the construction of a parking lot, hence no inspection had occurred which may have detected this error.

Recognizing that the Applicant's property abuts both sides of the surplus lands (north and south), if the sale is approved and lands are conveyed to the Applicant, this would result in all of the Applicants parcels merging into one large parcel (the purple and yellow hashmarks on Attachment 1). The Applicant only wants the surplus lands to merge with his properties to the south as shown on Attachment 1 (green arrows), keeping his parcel to the north separate. Therefore, if the sale and conveyance of the surplus property is approved, the Applicant will change the ownership of the parcels on the south side of the surplus property to *HML Holdings and John Paul Edelman* on title, prior to any conveyance occurring. This will ensure that only the surplus property and the Applicant's parcels to the south will merge as shown by the green arrows on Attachment 1 as was the advice of the Applicant's solicitor. The Applicant's property to the north will remain unchanged. If approved, the By-law for conveyance will not be brought before Council for authorization, until the ownership change for the property has been completed and confirmed by Land the Registry Office.

Staff reiterated with the Applicant, that without the benefit of including the northern property as part of the merged properties, this will result in the merged properties being landlocked; and with no road frontage. Staff also forwarded the comments received from other divisions and the Grand River Conservation Authority regarding the development limitations if this conveyance were to occur. Those comments are outlined below in the Analysis section of this report. The Applicant acknowledged receipt of this feedback (being landlocked and development limitations) and wishes to proceed with the application.

## **ANALYSIS:**

HML Holdings Ltd. (the Applicant) is requesting to purchase surplus County-owned property identified on Attachment 1 in yellow hashmarks. The Applicant's land is identified in purple hashmarks. The Applicant has been utilizing a portion of this County-owned surplus lands for an unspecified period of time for his business as noted above in the Background.

Upon receipt of such request, staff circulated notice to County divisions: Public Works Operations; Facilities, Parks, Cemeteries & Forestry Operations; Building & Municipal Enforcement Services; Community Development & Partnerships; Economic Development & Tourism; Emergency Services; Engineering Services; Environmental Operations; and Planning & Development; as well as the necessary utility companies and the Grand River Conservation Authority (GRCA). The County is the only other abutting land owner.

No concerns or objections were brought forward by County divisions, utilities or the GRCA; however, comments were received and are outlined below. The comments have also been provided to the Applicant.

Environmental Operations Comments: In regards to future development requests, staff would not support extending services through multiple private easements; and servicing should only be made available if water mains are extended (new infrastructure). If development does occur, this would prevent main extensions along road allowances.

Planning & Development Comments: The property does not have frontage on an open municipal road and in order for any development to occur on the parcel, the road would have to be constructed. The lands do not have any specific zoning because they are part of the former road allowance, so depending on where it is added, the zone category would be different (i.e., either to lands to the north or to the south). Currently on its own, it would not qualify as a buildable lot.

Building & Municipal Enforcement Services Comments: According to Zoning By-law 4.23, the subject property is not a buildable lot on its own as it does not have frontage on an improved street.

GRCA Comments: the proposed parcel for acquisition includes a portion of a watercourse (Pike Creek), floodplain, and the regulated allowance to these features. As such, the lands to be acquired are regulated by GRCA under Ontario Regulation 150/06. While we would not object to the sale of this parcel, we would note that not all portions of these lands are suitable for development. No development is permitted within the floodplain (including grading or expansion of the lands currently used for parking), and any future development proposed in the floodplain allowance would require a permit from GRCA. If preferred, the boundaries of proposed parcel to be sold could be adjusted to match the treeline adjacent to the existing paved area at 43 Talbot Street East (reflecting unregulated lands only). That said, the creek runs through the purchaser's property north of the road allowance, so the impact of the sale of the full proposed parcel from an ownership and resource perspective is likely to be limited. Staff have conveyed this information to the Applicant and the Applicant requested no changes be made to their application based upon the above GRCA comments.

The Applicant has proposed a purchase price of \$12,600.00 plus HST, which aligns with the County's Vacant Land Value Chart. The Applicant has signed an Environmental Acknowledgement, thereby agreeing that the property is on an "as is – where is" basis. Staff recommend that the surplus property totalling approximately 1.12 acres, be sold to the Applicant, who is also the abutting owner, for the submitted purchase price plus HST and all costs of conveyance. Once the ownership name change has been confirmed as being completed, the subject lands will merge with the abutting parcel to the south.

## **FINANCIAL/LEGAL IMPLICATIONS:**

If the conveyance is approved, the net proceeds of the sale will be contributed to the Land Sales Reserve in accordance with the Disposal of Surplus Lands Policy 2002-06.

All costs associated with the property transactions will be borne by the Applicant.

## **STAKEHOLDER IMPACTS:**

Not applicable.

## **REPORT IMPACTS:**

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

## **REFERENCES:**

None.

## **ATTACHMENTS:**

1. Map of Subject Lands