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# HALDIMAND COUNTY

Report LSS-17-2023 Road Closure and Conveyance – Part of Spruce Avenue,  
Hagersville



For Consideration by Council in Committee on September 19, 2023

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## OBJECTIVE:

To advise Council of a request to close and purchase part of Spruce Avenue in Hagersville.

## RECOMMENDATIONS:

1. THAT Report LSS-17-2023 Road Closure and Conveyance – Part of Spruce Avenue, Hagersville be received;
2. AND THAT the application from James Stymeist and Cynthia Stymeist requesting to close and purchase part of Spruce Avenue, Hagersville, legally described as part of PIN 38191-0139; Spruce Avenue Plan 44; Haldimand County, not be approved for the reasons outlined in Report LSS-17-2023.

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

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

**Respectfully submitted:** Megan Jamieson, CHRL, General Manager of Corporate & Social Services

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

## EXECUTIVE SUMMARY:

The County has received a request from James Stymeist and Cynthia Stymeist (the Applicants), to close and convey a portion of Spruce Avenue, Hagersville. A location map of the subject property is shown as Attachment 1.

Due to the feedback received in response to this request, specifically the County's continued seasonal use of this road allowance, as well as concerns expressed from Planning on the negative impacts on the neighbour's property, the staff recommendation is to retain this Part of Spruce Avenue.

## BACKGROUND:

Staff received an application and fee from the Applicants in August of 2022 presenting an interest in acquiring a portion of Spruce Avenue in Hagersville. If successful, the sold property will merge with their current property (6 Walnut Street, Hagersville) for the purpose of squaring up their existing 5.09 acres. Additionally, this would result in their property having two points of access – the current one from Walnut Street and a new one from Spruce Avenue as shown in yellow hashmarks on Attachment 1.

The Applicants offered a purchase price of \$6,500.00 plus HST, plus all costs for conveyance for the 0.18 acres, which is a reasonable market value offer, based upon the realtor's assumption the parcel is not eligible for development. The Applicant noted the driveway of 11 Spruce Avenue abuts the portion

of road allowance that they are seeking to purchase, and are willing to have an easement agreement for continual access.

Staff are recommending that the subject property be retained by the municipality and not be sold to the Applicants. This recommendation is a result of feedback received from multiple County divisions and abutting landowners as further described in this report, as well as additional requirements noted by Bell Canada.

## **ANALYSIS:**

The Applicants, located at 6 Walnut Street as shown in purple hashtags on Attachment 1, submitted an application to purchase the abutting County-owned Spruce Avenue road allowance, being approximately 0.18 acres shown in yellow hashtags on Attachment 1.

In order to determine the feasibility of the sale of a portion of this property, including if there is a municipal need for the lands in whole or in part, or if there are certain restrictions or provisions that should be placed on a proposed sale, staff sought feedback from County divisions including Public Works Operations; Facilities, Parks, Cemeteries, & Forestry Operations; Building & Municipal Enforcement Services; Economic Development & Tourism; Emergency Services, Engineering Services; Environmental Operations; Planning & Development; utility companies; as well as the Grand River Conservation Authority.

### Feedback:

Two abutting landowners have contacted staff to voice their concerns. Doug and Bev Burns (the Burns) own the property located at 11 Spruce Avenue. Their driveway fronts onto the portion of Spruce Avenue that the Applicants wish to purchase; and the Burns' have concerns that this may negatively impact their ongoing ability to access their driveway and property. The Burns feel that relocation of the driveway would likely be cumbersome and expensive due to an existing hedge, willow tree, cistern and hydro pole.

Planning & Development also has concerns regarding the sale of the subject portion of Spruce Avenue and its impacts on 11 Spruce Avenue. While it will not create any new or impact future development opportunities for the applicants property that would not be supported by policy, the residential property at 11 Spruce Avenue would be adversely affected by the closure and sale of the lands as the "Subject Lands". The Subject Lands make up the majority of frontage for the property at 11 Spruce Avenue, who use and obtain access to their property via a driveway across the lands. Through the closure of Spruce Avenue, 11 Spruce Avenue would need to now have an easement over the private parcel to maintain the long-existing access to their land. This would also result in a zoning deficiency issue for 11 Spruce Avenue for frontage as the lot would be reduced below the minimum required frontage of 30 metres.

George and Marla Eve own the adjoining property located at 3 Oak Boulevard and stated that they have helped maintain the dead end road since 1985; utilizing the subject portion of Spruce Avenue to access their back yard, therefore they are not in support of the application.

Roads Operations Division: Roads Operations Division does not support the sale of this portion of Spruce Avenue as it is utilized during winter control as a site to store snow that is plowed from Spruce Avenue and Oak Boulevard. The requested lands are currently considered an open road allowance, a portion of which is paved and maintained by the County.

Building & Municipal Enforcement (BME) Services Division: Since the lands in question are currently deemed road allowance, they are not zoned. It is totally dependent on how the lands would be zoned if bought and merged, to determine if it is a buildable lot on it's own or not. Hypothetically, if it was to take on the surrounding RH zoning, it would not conform with the minimum lot area or minimum lot frontage. Without a proposed site plan, it is difficult to determine if the minimum setbacks would be

complied with. Since the lot is not serviced, a class four sewage system would also need to be accommodated on the property.

Grand River Conservation Authority (GRCA): While GRCA staff generally have no concerns with merging a portion of Spruce Avenue to the parcel to simply square up the lot, if the Applicants are planning any future development on the parcel, GRCA staff would need to review the proposal as this site is quite restricted and a permit would be required. GRCA staff specifically note that development is not permitted within the wetland, and development not associated with the existing dwelling, is not permitted within the floodplain.

Bell Canada: Bell Canada has identified existing buried plant/cable which runs on the east side of Spruce Avenue, and the south side of Oak Boulevard. If the parcel of land were to be sold into private ownership, Bell Canada would require a blanket easement over the lands, in advance of the sale in order to protect the buried facilities, supply service to the properties and maintain service in the area. It is noted that such process would require the surveyor to arrange for a conduit/cable locate to identify its location.

#### Recommendation:

Staff do not recommend selling part of Spruce Avenue, Hagersville, legally described as part of PIN 38191-0139; Spruce Avenue Plan 44; Haldimand County, as it is unreasonable to expect the owners living at 11 Spruce Avenue to give up an established access off of a municipal road for an easement – as it may affect the value of their property. Additionally, as noted above the Roads Operations Division utilizes this dead end during winter control as a site to store snow.

Prior to this report being presented for Council's consideration, staff advised the Applicants of the staff feedback and subsequent staff recommendation to provide the Applicants the opportunity to withdraw their request if desired. The Applicants have confirmed they would like to proceed with their application being presented to Council for consideration.

### **FINANCIAL/LEGAL IMPLICATIONS:**

If sold, all costs associated with the property transactions will be borne by the purchaser(s) and the identified property would no longer be the legal responsibility or liability of the County. Subsequently, any proceeds from sale, if applicable, would be contributed to the Land Sales Reserve in accordance with County Policy.

If the property is not sold at this time, the property will remain the legal responsibility of the County. All costs incurred by the County to date are off-set through the non-refundable application fee.

### **STAKEHOLDER IMPACTS:**

Not applicable.

### **REPORT IMPACTS:**

Agreement: No

By-law: No

Budget Amendment: No

Policy: No

**REFERENCES:**

None.

**ATTACHMENTS:**

1. Location Map