
HALDIMAND COUNTY

Report LSS-16-2023 Unsolicited Offer to Purchase Property - Part of the Closed Road - Diltz Station Road, Dunnville

For Consideration by Council in Committee on October 10, 2023



OBJECTIVE:

To provide details of an unsolicited offer to purchase County-owned surplus lands that are part of the closed road - Diltz Station Road in Dunnville.

RECOMMENDATIONS:

1. THAT Report LSS-16-2023 Unsolicited Offer to Purchase Property - Part of the Closed Road - Diltz Station Road, Dunnville be received;
2. AND THAT the surplus property formally known as part of Diltz Station Road Dunnville, which was previously stopped up and closed by By-law 22-82, and legally described as Part of PIN 38105-0214 (LT) Road Allowance Between Lot 15 and 16 Second Concession From Canborough Moulton; Road Allowance Lying to the North of Lot 15 Concession 2 from Canborough, Lot 7 Concession 3 & Concession 4 from Canborough and Lot 9 Concession Gore A Moulton Closed By HC142691, Lying Between Road Allowance Between Concession 1 from Canborough and Concession 2 from Canborough and Second Range from Grand River Moulton & Road Allowance Between Second And Third Concession from Canborough Moulton (Aka Hutchinson Road, Diltz Station Road); Haldimand County be sold to the abutting land owner, Mary Jane Van Kuren, for the purchase price of \$7,250, plus HST, plus costs of conveyance inclusive of Haldimand County's legal fees, conditional upon easements being registered in favour of Bell Canada to protect existing aerial cable and in favour of Enbridge gas main infrastructure, if deemed necessary as determined upon the completion of locates;
3. AND THAT public notice of the proposed conveyance be given;
4. AND THAT a by-law be presented for enactment to authorize the conveyance;
5. AND THAT the Mayor and Clerk be authorized to execute all necessary documents.

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

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

Approved: Cathy Case, Chief Administrative Officer

EXECUTIVE SUMMARY:

The County has received an unsolicited offer to purchase County-owned surplus lands that were previously stopped up and closed by By-law 22-82; and which were formally known as part of Diltz Station Road in Dunnville. A location map showing the subject property in yellow hashmarks is attached to this report as Attachment 1. The unsolicited offer is from Mary Jane Van Kuren whose property abuts

the surplus lands and is shown in purple hashmarks on Attachment 1. Acquisition of these lands would allow the applicant to gain road frontage as her property is currently landlocked.

Staff are recommending selling these lands, to the Applicant, for the submitted purchase price plus HST and all costs of conveyance, including requirement easement(s) in favour of utilities. This recommendation is in line with comments from County divisions, utilities and the NPCA, and is based on the assumption that the parcel is not, in its current state, a buildable lot and to become a buildable lot could require significant further efforts and expense by the Applicant. For clarity, there are a number of unknowns associated with this property such as proximity of the former rail line, unknown soil conditions, insufficient frontage and existence of NPCA regulation, so at this point it is difficult to assess the level of effort to consider the parcel as developable lands.

BACKGROUND:

On June 22, 1982, By-law 22-82 was passed, closing the portion of road that the Applicant wishes to purchase. In June of 2022, staff received an unsolicited offer from Mary Jane Van Kuren, requesting to purchase part of the closed road allowance between lots 15 and 16, Concession 2 from Canborough, Moulton Township, designated as Parts 1, 2 and 3 on Reference Plan 18R-1909, being part of PIN 38105-0214(LT) and shown in yellow hashmarks on Attachment 1. The Applicant owns the abutting land to the East (shown in purple hashmarks on Attachment 1). The Applicant wishes to purchase a portion of the closed road for the purposes of merging with her current land locked property providing an access point (driveway) and road frontage.

ANALYSIS:

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, the Niagara Peninsula Conservation Authority (NPCA) and abutting landowners.

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

- **Building & Municipal Enforcement Services Comments:** The minimum lot frontage for an interior lot in the Agricultural zone (which is what the property would likely get classified as) is 30 m, and the frontage of the subject lands is 20.21 m. No building permits could be issued on this parcel, since there would be a lot frontage deficiency. Relief of the minimum lot frontage could be requested through Planning with an application, along with any other potential deficiencies (dependent on a proposed site plan). The property is also under the jurisdiction of the NPCA, which would require approval prior to building permits as well. An Environmental Site Assessment / Record of Site Condition may also be required prior to building permits if any or all of this land was part of a former rail line. Additionally, the Applicant may wish to have a licensed sewage installer assess the site to determine if a Class 4 system could be accommodated on the property if construction of a dwelling is being considered.
- **Planning & Development Comments:** The Applicant's land currently lacks frontage on an open and maintained municipal road. The closure and sale of these lands would provide the Applicant direct frontage onto Diltz Road and provide an opportunity for a potential building lot, although with unknown variables to be considered. A Minor Variance Application would be required if the

Applicant was seeking relief of the minimum lot frontage. The application being vetted to determine if the intent of the application maintains the intent of the Official Plan and Zoning By-law, if in fact the application is considered minor in nature; and if the application represents desirable development. All Planning Applications are evaluated on their own merit without the consideration of precedents. There would be costs associated with the Minor Application Fee (2023 rate \$1,778), a NPCA review fee (2023 rate \$678) as well as all applicable building permit fees which vary depending upon the permit type. Based upon the information presented by the Applicant with the offer to purchase, Planning has no specific concerns regarding the request.

- Niagara Peninsula Conservation Authority Comments: The NPCA offers no objection to the sale of the land at PIN 38105-0214 in Haldimand County. Should development be proposed on this lot in the future, an NPCA work permit may be required depending on the scope of the proposed works.
- Bell Comments: Bell has requested that an easement over a part of the closed road will be required to protect, and enable ongoing access to existing aerial Bell facilities which services the area. There is an aerial cable situated to the North of and in alignment with the Southern property boundary, as depicted in red on the map provided in Attachment 2. An easement to include a 3.0-meter-wide corridor, with measurements of 1.5 meters on each side of the aerial cable will meet Bell's needs. Bell has requested that the easement be officially registered before the property is transferred to the Applicant. All costs related to this easement will be the responsibility of the purchaser if approved by Council.
- Enbridge Comments: Enbridge reviewed the proposed lane closure and determined that there is a 3" steel gas main that may be within the closed road portion in question. Enbridge will be conducting locates to specify the exact location of the gas main in reference to the road allowance. If the gas main is located within the road allowance, Enbridge will require an easement to be registered prior to the sale of this property. All costs related to this easement, if required, will be the responsibility of the purchaser if approved by Council.

The Applicant has proposed a purchase price of \$7,250 plus HST. The Applicant received a realtor's opinion on the subject property that recommended the land be sold between \$6,500-\$8,000. A copy of the opinion is provided as Attachment 3. Staff have reviewed the offer, noting that there is potential that this could become a buildable property, albeit, there are several limiting factors as noted above, specifically in the Building & Municipal Enforcement Services, Planning and NPCA comments, potential for soil contamination due to the proximity of the former rail line; as well as location of utility infrastructure. Given the number of unknowns, staff cannot anticipate, at this time, how complex an application would be nor if the parcel would ever be deemed developable. The Applicant has signed an Environmental Acknowledgement, thereby agreeing that the property is on an "as is – where is" basis without any conditions of soil testing.

Based upon these factors, the offer value aligns with the County's Vacant Land Value Chart. Staff recommend that the surplus property totalling approximately .72 acres, be sold to the Applicant, who is also the abutting owner, for the submitted purchase price plus HST and all costs of conveyance. After finalizing the transaction, an application for consolidation will be submitted to merge the subject lands with the adjacent parcel belonging to the Applicant to the east.

Finally, it is important to reiterate that the applicant's abutting property is currently land locked. Staff are unaware of the factors which led to the applicant's land becoming land locked (i.e. whether it was as a result of the stopped up road, or whether it became landlocked for other reasons subsequent to the road closure) however, the recommended sale to abutting land owner would facilitate an access point and alleviate the issue, as opposed to perpetuating a land locked parcel should the subject lands be maintained as surplus or sold to an alternate buyer.

That said, Council is reminded that they can always provide direction to staff that differs from the recommendation to sell. For example, should it be deemed prudent, Council could instead consider

options such as countering the offer with specified parameters (normally discussed in closed session); offer the land through a public process such as listing it or by sealed bid; or not accept the offer at all.

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: Yes

By-law: Yes

Budget Amendment: No

Policy: No

REFERENCES:

None.

ATTACHMENTS:

1. Map of Subject Lands
2. Map of Bell Easement
3. Realtor's Opinion