
HALDIMAND COUNTY

Report LSS-17-2024 Addendum to LSS-10-2024 Unsolicited Offer to Purchase Property - Fishcarrier and Norton, Cayuga



For Consideration by Council in Committee on October 29, 2024

OBJECTIVE:

To update Council on a request to convey a part of Fishcarrier Street and Norton Street in Cayuga.

RECOMMENDATIONS:

1. THAT Report LSS-17-2024 Addendum to LSS-10-2024 Unsolicited Offer to Purchase Property - Fishcarrier and Norton, Cayuga be received;
2. AND THAT staff proceed with Option # ____, as outlined within this report for the property known as part of Fishcarrier, legally described as Part of PIN 38231-0136 (LT) Fishcarrier Street Village of Cayuga East of Grand River South of Echo Street & North of HC277439; Haldimand County;
3. AND THAT if Council directs staff to sell part of Fishcarrier to the Applicants, as a condition of sale, that the Applicants be required to provide a survey of Fishcarrier Street as delineated in Parcel A and Parcel C on Attachment 2, prepared as a reference plan, at the applicant's cost; to enable staff to register a by-law closing the identified Fishcarrier Parcels at the Land Registry Office;
4. AND THAT if Council directs staff to sell part of Fishcarrier to the Applicants as legally described above, as a condition of sale, the County be permitted to enter into an easement agreement for access across Parcel A with the property owner of 33 Echo Street, to enable continued use to the rear of their property;
5. AND THAT if Council directs staff to sell part of Fishcarrier to the Applicants as legally described above, as a condition of sale, the Applicants must sign the Environmental Acknowledgement confirming that the property is sold on an "as is – where is" basis;
6. AND THAT the portion of Norton Street, legally described as part of PIN 38231-0130 (LT) Norton Street Village of Cayuga East of Grand River East of Thorburn Street & West of Fishcarrier Street; Haldimand County above, be declared no longer available for sale and retained by the County;
7. AND THAT if Council directs to staff to sell part of Fishcarrier to the Applicants as legally described above, that public notice of the proposed conveyance be given, a by-law be passed at a future Council meeting to authorize the conveyance; and 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

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

Approved: Cathy Case, Chief Administrative Officer

EXECUTIVE SUMMARY:

Report LSS-10-2024 was presented to Council at the August 27, 2024 Council in Committee (CIC) meeting to consider the sale and conveyance of portions of Fishcarrier Street (approx. 0.40 acres) and Norton Street (approx. 0.16 acres), Cayuga, identified as Parcel A and B, respectively, as shown on Attachment 1. Staff did not recommend the sale of these County-owned lands, for the reasons outlined in the report.

Upon Council's consideration of the report and receiving delegations from Doug and Diane Manto (the Applicants), and an abutting land owner (McCarthy), Council referred the report to a future meeting and provided direction to staff to further explore alternative options. Council requested that staff meet with the Applicants and other abutting neighbours to discuss alternative options, focusing on a solution that ensures unfettered access to their respective properties and prevents any privately-owned parcel from being landlocked.

As a result of subsequent discussion, the Applicants have submitted an alternative offer, being to purchase a smaller portion of Fishcarrier Street (approx. 0.20 acres) identified as Parcel A on Attachment 2, for a purchase price of \$4,600 + HST. This offer value remains unchanged from the initial offer, even though the size of the property is now half, and aligns with the County's Vacant Land Value Chart (VLVC). Although this alternative offer ensures that all abutting parcels remain accessible and there are no concerns from staff or external agencies, there is still no consensus between the abutting property owners and the Applicants.

With regard to Norton Street (Parcel B, Attachment 2), the Applicants are still requesting to purchase the 0.16 acre parcel, but have increased the offer value from \$1,400 to \$1,600 + HST. This is slightly below the VLVC.

In light of the differences of opinion between the Applicants and the abutting property owners, and consideration to the previous Council direction, staff have provided three options regarding the request to purchase a portion of Fishcarrier Street, (Parcel A, Attachment 2) for Council's consideration and direction. Staff's original recommendation of retaining Norton Street (Parcel B, Attachment 2) remains unchanged and is further explained in this report.

BACKGROUND:

At the August 27 Council in Committee (CIC) meeting, Report LSS-10-2024 presented options and recommendations to address a request from Doug and Diane Manto (the Applicants) to purchase portions of Fishcarrier Street (approx. 0.40 acres) and Norton Street (approx. 0.16 acres), Cayuga, identified as Parcel A and B, respectively, on Attachment 1. The properties would merge with the existing property of the Applicants which was purchased through a former municipal tax sale process on an "as-is" basis. The Applicants and an abutting land owner (McCarthy) provided delegations to this topic at the meeting. Based on Council discussion, staff were asked about additional feasible options, which were presented theoretically, as outlined below:

- The Applicant could purchase Fishcarrier and develop the road to County standards, similar to what a developer would do. This would be a significant cost to the Applicants, therefore not a feasible option.
- The Applicant could purchase Fishcarrier and grant easement rights to the property directly behind 37 Echo Street, owned by McCarthy. While this is an option, it is not a preferred choice, as it adds complexities to Land Titles and could negatively impact the McCarthy property in the future if McCarthy wished to sell. Additionally, easement rights would not equate to road frontage, which could hinder potential development of the McCarthy property.

- The Applicant could amend their application, requesting to split Fishcarrier and only acquire 10.6 meters of the 20.12 meters road frontage (approx. 0.20 acres), which would merge with the Applicant's property (shown in purple on Attachment 1). The remaining 10.6 meters of the easterly half of Fishcarrier (Parcel C, Attachment 2) could then be made available for sale to McCarthy or continue to remain in County ownership. Either of these options ensure that all properties remain accessible and not land-locked.

Ultimately, Council referred the report to a future meeting. Council requested that staff meet with the Applicants and other abutting neighbours to discuss alternative options, focusing on a solution that ensures unfettered access to their respective properties and prevents any privately-owned parcel from being landlocked.

Staff and the Applicants have engaged in multiple communications. As a result, the Applicants have amended their request from purchasing the entire portion of Fishcarrier (0.40 acres) to only requesting to purchase the westerly half (0.20 acres), identified as Parcel A, Attachment 2, for \$4,600 plus HST. The Applicants original request to purchase Norton Street (Parcel B, Attachment 2) approximately 0.16 acres, remains unchanged; however, they have increased their offer from \$1,400 plus HST to \$1,600 plus HST.

After presenting this amended option to the abutting landowners, they confirmed that their positions remain firm and unchanged from what was presented in the August 27 report - that they do not support the sale of either Parcel.

Since the CIC meeting, the property owner of 33 Echo Street (Jancar) provided additional comments, stating that if the Applicants property is not a buildable lot, the County should not consider selling a portion of Fishcarrier. Additionally, Jancar confirmed with staff that Fishcarrier, as County-owned property, is currently available for public use, and which they use to access their exterior buildings and septic system at the rear of their property. By selling Fishcarrier, they would lose these access rights.

The Applicant is aware of the concerns from the abutting landowners and wishes to continue with their Application for consideration by Council.

ANALYSIS:

Based upon the amended application, staff revisited the feedback and due diligence process, receiving the following comments:

The Planning & Development (PDD) Division believes that the proposed solution (conveying Parcel A, Attachment 2) is appropriate given the circumstances. The minimum requirement for lot frontage is 15 metres (49.2 feet) in this particular zone; however, should Parcel A be conveyed, the Applicants can apply for a minor variance to reduce the lot frontage to 10 metres (32.8 feet) and allow for partial servicing. The partial servicing would recognize that there is water service along Echo Street East; however, municipal sanitary services are not available in this area. Approval of the minor variance would be necessary to make this property a buildable lot. Planning applications are a public process and there is no guarantee of approval. The Applicants are aware there is risk involved and are responsible for completing their due diligence. It is noted that similar type applications have been supported in the past. Planning & Development staff support retaining Norton Street and agree with the comments received and noted below by the Grand River Conservation Authority (GRCA).

The Building & Municipal Enforcement (BME) Division provided commentary that if the County sells the Applicants the "half lot" (Parcel A, Attachment 2), BME would require a sewage system installer to conduct an evaluation of the newly created property to ensure that a class 4 sewage system could be accommodated on the property with a dwelling and still meet the minimum required setbacks. This would also be under the requirement that they would be granted relief for lot frontage through a

Planning application and all properties are appropriately merged. GRCA approval would also be required. Permits issued in response to applications for building permits are not guaranteed, with approval subject to compliance with the Building Code, zoning by-laws and other applicable requirements such as those previously outlined.

The Engineering Services (ENG) Division have no concern with the proposed sale of Parcel A, Attachment 2. However, Engineering's comments with respect to Norton Street (Parcel B, Attachment 2) have not changed since the initial report. Staff do not support the sale of Norton Street as this parcel contains a stormwater outlet that may require future maintenance. If Parcel A and/or Parcel C (Fishcarrier) on Attachment 2 is conveyed, staff have confirmed that access can be gained through the unopened portion of Norton Street from Winnett Street North, provided this access remains as County-owned lands.

The Grand River Conservation Authority's (GRCA) comments have not changed. They have no concern with the sale of Fishcarrier (Parcel A, Attachment 2) but do not support the conveyance of Norton Street (Parcel B, Attachment 2), as this Parcel, is partially contained within the Pike Creek floodplain where no new development is permitted. The GRCA has informed the County that they are unsure whether the Applicant's property is buildable at this time, from the GRCA perspective. This determination will not be made until the proper vetting and due diligence has been completed, as initiated by a building permit application.

In consideration of the feedback, staff recommend Norton Street (Parcel B), be retained by the County. The Applicant has offered a purchase price of \$1,600 + HST for the 0.16 acres which is slightly below the VLVC. The road allowance contains a storm water outlet that may require future maintenance and is part of the Pike Creek floodplain and of which there is limited or no development opportunities.

Staff are presenting three options for Council's consideration and direction for Fishcarrier Street (Parcel A).

Option 1 – Fishcarrier – Not accept the offer and maintain status quo

All of Fishcarrier be retained by the County. By retaining this property, all abutting properties would maintain public access to their properties, and the County would have uninterrupted access to the infrastructure in the Norton parcel. The risk with this option is that the County would remain responsible for maintenance and liability of the Parcel, without the benefit of receiving tax revenue.

It is also important to note, as part of selling any County-owned land, the County requires all applicants to sign an Environmental Acknowledgement. This acknowledgement confirms that the property is sold on an "as is – where is" basis, protecting against future claims related to environmental issues, and ensuring that the buyer is aware of their responsibility to conduct their own due diligence. Several attempts were made to obtain compliance to this request, and at the time of preparation of this report, the Applicants have not signed the acknowledgement. **Based upon this factor alone, staff would not support the sale of any parcel until such acknowledgement is received.**

This option does not restrict the public's ability to submit future applications to purchase this portion of Fishcarrier Street.

Option 2 – Sell the entire road allowance as a buildable lot and landlock both parcels to the East and West

Alternatively, Council could opt not to accept the offer from the Applicants and market the entire road allowance as a buildable lot. While this option would likely result in higher revenue, this would landlock both the Applicants and McCarthy properties, and neither would be able to be developed based upon their current status of no road frontage. While it is ultimately Council's decision, typically, the County would not actively landlock private property, nor deny ingress or egress to another individual's land.

Option 3 – Fishcarrier – Convey Parcel A (Attachment 2) to the Applicants

Sell Parcel A (Attachment 2) to the Applicants for the offered price of \$4,600 plus HST and all costs of closure and conveyance including the County's legal fees. The offer aligns with the County's Vacant Land Value Chart and mostly addresses the requests made by Council at the CIC meeting in preventing any privately-owned parcel from being landlocked. If approved by Council, the Applicants would be responsible for providing a survey of Fishcarrier Street as delineated in Parcel A and Parcel C on Attachment 2, prepared as a reference plan, at their cost. This is required to enable staff to prepare and register a by-law closing the identified Fishcarrier Parcels with the applicable legal descriptions at the Land Registry Office.

As a condition of the sale, the Applicants would be required to sign an Environmental Acknowledgement confirming that the property is sold on an "as is – where is" basis.

As noted in the comments received from the owner of 33 Echo Street (Jancar), this owner uses the west side of Fishcarrier as "drivable access" to their shed/barn at the rear of their property as they cannot drive over the other portion of their property due to the location of their septic system. Jancar stated that "when we bought this property it was explained that the vacant area between my lot and 37 Echo was town owned road so I would have access to that shed". While staff cannot make comment as to who provided this information, the information is correct in that it is owned by the County, but was closed by By-Law 242 which transitioned this Parcel to County-owned *property* as opposed to being a *road allowance*. As County-owned property, Council has the full ability and authority to retain or dispose of this parcel and there is not a legal requirement to provide this means of access to the abutting Jancar property.

In further review of this concern, staff have reached out to Jancar to determine if there would be any interest in obtaining easement rights over the lands identified as Parcel A, Attachment 2. While an easement would not be a suitable option for McCarthy as it could impact their future development opportunities, this is not the case for the Jancar property. The purpose of the easement would simply be to gain access on an occasional basis to the shed/barn located at the back of their property. The easement would be established prior to the sale of Parcel A (if approved) and the easement would simply remain on Land Titles and transfer with the sale. Jancar reaffirmed their preference for the County to not sell this road allowance to the Applicant, but if Council does support the sale, Jancar has requested an easement. The cost of the easement if agreed to by the Applicants, would be the responsibility of Jancar.

FINANCIAL/LEGAL IMPLICATIONS:

If any parcel of land is 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, the property will remain the legal responsibility of the County.

STAKEHOLDER IMPACTS:

Not applicable.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

REFERENCES:

1. [LSS-10-2024 Unsolicited Offer to Purchase Property – Part of Closed Roads – Fishcarrier and Norton, Cayuga](#)

ATTACHMENTS:

1. Applicants Original Request Map of Subject Lands
2. Applicants Modified Request Map of Subject Lands