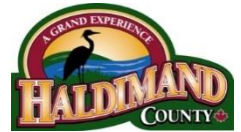

HALDIMAND COUNTY

Report CS-SS-05-2018 Road Closure and Conveyance, Part of the Road Allowance Between Lots 8 and 9, Concession 1, Sherbrooke

For Consideration by Council in Committee on January 16, 2018



OBJECTIVE:

To advise Council of a request to purchase part of the road allowance between Lots 8 and 9, Concession 1, Sherbrooke, in Lowbanks.

RECOMMENDATIONS:

1. THAT Report CS-SS-05-2018 Road Closure and Conveyance, Part of the Road Allowance Between Lots 8 and 9, Concession 1, Sherbrooke, be received;
2. AND THAT the application from Joseph Mussari for the road closure and conveyance of Part of PIN # 38127-0334(LT), being the southerly part of the road allowance between Lots 8 and 9, Concession 1, Sherbrooke, Haldimand County, not be approved for the reasons outlined in Report CS-SS-05-2018.

Prepared by: Sandra Marsh, Property Coordinator

Reviewed by: Dana McLean, Risk Management and Insurance Coordinator

Respectfully submitted: Karen General, CPA, CGA, General Manager of Corporate Services

Approved: Donald G. Boyle, Chief Administrative Officer

EXECUTIVE SUMMARY:

The County has received a request to close and convey part of the road allowance between Lots 8 and 9, Concession 1, Sherbrooke. Staff are recommending that this portion of the road allowance be retained by the municipality and not sold to the applicant. If Council concurs with the staff recommendation, the applicant has requested that the Road Closure and Conveyance application fee be refunded, which would require waiving of the “non-refundable” provision of the User Fee By-law.

BACKGROUND:

The County is in receipt of a request from Joseph Mussari to purchase part of the most southerly portion of the road allowance between Lots 8 and 9, Concession 1, Sherbrooke, in Lowbanks. The subject land, totaling approximately 0.33 acres, abuts the westerly boundary of the lands currently owned by Joseph and Mary Mussari and is bounded on the south by Lake Erie. A location map of the subject property is shown as Attachment #1.

ANALYSIS:

Mr. Mussari indicates he wishes to purchase these lands from the County in order to add them to the lands he currently owns and install erosion control measures for future residential development of the

lands. If Council were to approve a sale, the subject lands would need to be added to the property currently owned by the Mussari's as a condition of sale as there is no other way to access this land.

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 & Development, and Roads Operations.

The Economic Development and Tourism Division indicated they did not support the road closure and conveyance request as this waterfront access should be retained by the County as public access space along the waterfront.

The Planning and Development Division indicated that they did not support the road closure and conveyance request. The Applicant's intended use of the lands (i.e. to support residential development) is not appropriate given the current designation. The subject lands are zoned Agricultural and fall outside of the Resort Residential designation and are subject to all policies of the prime agricultural area. Given that these lands would be for the sole purpose of facilitating development in the Resort Residential node (i.e. infrastructure support for a residential unit), the process could be viewed as an attempt to expand the node in an unjustified manner. The point of this being, that all components / aspects of a residential lot development need to be contained within the designation that supports said development – i.e. Resort Residential. That would not be the case should this proposal be permitted and allowed to advance.

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. Several landowners in the area expressed concerns with the sale of this property and provided written opposition letters which are included as Attachments #2, #3 and #4. In summary, neighbouring landowners are opposed to the sale of this land and would like it to be retained as the historical public pedestrian access to Lake Erie. Although the letter from Duxbury Law, in Attachment #2, indicates his client has an easement over the subject lands, staff have confirmed there is no easement registered on title to the subject property.

For the reasons outlined above, staff do not recommend closing the road allowance or conveying the property to the abutting landowners to the east, Joseph and Mary Mussari. It is recommended that the property be retained by Haldimand County.

FINANCIAL/LEGAL IMPLICATIONS:

A request has been received from the applicant for a refund of the Road Closure and Conveyance Administration fee of \$1,106 if they are not allowed to purchase the subject lands. When Mr. Mussari provided the County with the non-refundable administration fee to start the road closure and conveyance process, he was advised that there was no guarantee that the closure and conveyance would be approved. The administration fee is to offset some of the costs of the processing of a request to close a public road and is charged to the applicant given the direct benefit such approval could have. If Council wishes to refund the fee to Mr. Mussari, a resolution will be required to waive the provisions of the User Fee By-law. This sets a precedent related to any other time a conveyance request is denied.

When a request to purchase a road allowance is received by staff, prior to proceeding, the applicants are 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 applicants are required to bear

all other costs of the closure including, but not limited to, applicable taxes, advertising, appraisal fees, legal and survey costs. If Council chooses to proceed with the closure and conveyance, a value for the subject lands will need to be determined as an appraisal was not undertaken given the staff recommendation to retain the lands.

STAKEHOLDER IMPACTS:

The Planning and Development Division and Economic Development and Tourism Division have provided information for this report.

REPORT IMPACTS:

Agreement: No

By-law: No

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Map of the Subject Lands
2. Letter from Duxbury Law
3. Letter from Brandon Searles
4. Letter from Mohawk Heights