
HALDIMAND COUNTY

Report CS-SS-06-2018 Road Closure and Conveyance, Easterly Portion of Orchard Avenue, Plan 9413, Lowbanks



For Consideration by Council in Committee on January 16, 2018

OBJECTIVE:

To advise Council of a request to purchase the easterly portion of Orchard Avenue, in Lowbanks.

RECOMMENDATIONS:

1. THAT Report CS-SS-06-2018 Road Closure and Conveyance, Easterly Portion of Orchard Avenue, Plan 9413, Lowbanks, be received;
2. AND THAT the application from Loraine Lymburner for the road closure and conveyance of Part of PIN # 38100-0130(LT), being the easterly part of Orchard Avenue, Plan 9413, Haldimand County, not be approved for the reasons outlined in Report CS-SS-06-2018.

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 known as the easterly portion of Orchard Avenue, in Lowbanks. Staff are recommending that a large portion of the subject land should be retained by the municipality and should not be sold. If Council agrees 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 Loraine Lymburner to purchase part of the road known as the easterly portion of Orchard Avenue, in Lowbanks. The subject land, totaling approximately 0.13 acres, abuts the westerly boundary of the lands currently owned by Loraine Beatrice Lymburner and Jayson Leeland Lymburner. A location map of the subject property is shown as Attachment 1.

ANALYSIS:

The subject property is a small section of dead-end road allowance between the Lymburner’s property and Beach Road. The Lymburner’s advise that they use the unopened road allowance to access the rear portion of their farm. Recently, through Report CS-SS-20-2017, Council approved the closure and conveyance of another section of Orchard Avenue, lying west of Beach Road. That section of unopened

road allowance was declared surplus to County needs, was sold to the abutting landowner to the south and added to their property.

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, Solid Waste Operations, Facilities & Parks Operations, Planning & Development, and Roads Operations.

The Solid Waste Division indicated they do not support the road closure and conveyance request as waste collection trucks use this road allowance to turn around in order to service the twenty-seven properties in the area. The Roads Operations Division also indicated that they do not support the road closure and conveyance request and advised that the westerly 10 metres of the subject lands would need to be retained by the County for a hammerhead turnaround for snow removal vehicles. Based on these municipal requirements, staff prepared the attached map showing the turning radius with the balance of the easterly portion of Orchard Avenue that could be closed and conveyed to the Lymburner's. The applicant advised that they were not interested in purchasing the smaller portion of County land, as shown in Attachment #1.

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. Another non-abutting neighbour in the area also expressed an interest in purchasing this section of road allowance, however staff indicated that, historically, a recommendation is made to sell to abutting landowners before non-abutting landowners.

For the reasons outlined in this report, staff do not recommend closing the road allowance or conveying the property to the abutting landowners to the east, Loraine Beatrice Lymburner and Jayson Leeland Lymburner, as a large portion of the lands need to be retained for municipal waste collection and snow removal operations and the applicant was not interested in proceeding with a purchase of a reduced parcel.

FINANCIAL/LEGAL IMPLICATIONS:

A request has been received from the applicant for a refund of the road closure and conveyance administration fee in the amount of \$1,106 if they are not allowed to purchase the subject lands. When an application is made for a road closure and conveyance, the applicant is advised that the fee is non-refundable and that there is no guarantee their application will be supported. The administration fee is to recover some of the costs of the processes undertaken by staff to deal with the request for the road closure given that the benefit of such transaction is primarily to the applicant. If Council wishes to refund the fee to Ms. Lymburner, 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 will be 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 determination of the size and value for the applicable portion of the road allowance will need to be determined as an appraisal was not undertaken given the reasons noted in this report.

STAKEHOLDER IMPACTS:

The Roads Operations Division and Solid Waste 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