



Staff Report

Report To: South Huron Council

From: **Alex Wolfe, Deputy Clerk**
Rebekah Msuya-Collison, General Manager of Corporate Services

Date: February 7 2022

Report: CL#04-2022

Subject: Rumball Request to Purchase Lands (Road Allowance, Dashwood)

Recommendations:

That South Huron Council receives the Staff Report Rumball Request to Purchase Lands (Road Allowance, Dashwood); and

That Council authorize staff initiate the process to stop up and close the unused portion of Ann Street that aligns with the rear property line of 183 Main Street and declare the lands surplus; and

That Council exercise their authority under Section 3, subsections 2 (the second one) and sections 6 and 11 of the Municipality's By-Law Governing the Sale of Real Property and authorize staff to negotiate solely with the owner of Lot 8, Plan 224, Stephen; Part Lots 1 and 9, Plan 224, Stephen; Part 3 22R1695; Municipality of South Huron for the unopened road allowances portion of Ann Street as outlined in this report; and

That Council authorize staff negotiate any recommended revisions to the agreement of purchase and sale and approve the proposed consideration for purchase of \$2.00 and no deposit, plus any municipal costs for the completing the road closing and sale process.

Purpose:

For Approval.

Background and Analysis:**Overview**

The owner of 183 Dashwood Main Street West, Shirley Rumball has requested that Council convey a portion of the Ann Street road allowance. This request would include Council declaring the lands surplus and stopping up and closing of the unopened road allowance.

The majority of house on the subject property is situated on the road allowance, as indicated on Reference Plan 22R-1695 attached to this report and sketch below for Council reference. Only the portion of the Ann Street unopened road allowance that aligns with the rear property line of 183 Main Street would be transferred to the Vendor (outlined in red). The dimensions of this portion of the unopened road allowance of Ann Street as outlined on Reference Plan 22R-1695 is 66.06 feet wide by 264 feet in length.



Blue = 183 Dashwood Main Street West, owned by Shirley Rumball
Red = Ann Street Road Allowance, owned by Municipality of South Huron

Analysis and Review of Request

The Plan of Subdivision was registered by instrument number PL224 on May 13, 1897 and MPAC records show that the house was constructed in 1910. The Municipal Solicitor noted that it may be possible that the road allowance transfer had been authorized in the past and this “appears to be a historical oddity”. Although the house has been situated on the road allowance since approximately 1910, the owner does not have adverse possession rights as these rights cannot happen for lands that are deemed use for a public highway.

The solicitor further noted that in the past it was quite common to provide the property owners themselves with the documents for registration of transfers and if they didn’t register the deeds, ownership of the property would not be changed. The property file at the municipality does not contain any reference to any transfer documentation at this point and this property disposal is a unique one as it deals with an unopened road allowance that has been occupied for many years.

In 1983 a severance application approved the severing off the restaurant and leaving the 10’ strip next to the road allowance. At the time of the severance, it was known that the house was built on the road allowance, however, it was thought not to be relevant to the severance of the existing restaurant. The municipal solicitor also noted that it is a bit odd that the transfer from 1984 to Rumball included Ann Street in Plan 222 especially with no reference to it being closed.

Staff Comments

- There are no municipal drains located on the road allowance, however, 183 Main Street Dashwood is assessed into the Haugh Municipal Drain. A reassessment under Section 65 of the Drainage Act will be required if the Ann Street Road Allowance land is merged into the parcel fabric for 183 Dashwood Main Street West.
- Given the length of time the house has been present and the layout of other streets to the south, staff have deemed it unlikely that that the right of way would be of any use to the Municipality in the future as a public roadway. It also does not line up with Rinker Street on the Bluewater side, making this a less than ideal intersection and that Huron County Highway Department should be contacted to confirm if they wish to retain a road widening dedication off the front of the property.
- Staff circulated Huron County to see whether they had any interest or concerns in connection with the transfer of the road allowance. The County expressed an interest in a road widening dedication fronting Dashwood Main Street transferred to Huron County. If Council decides

to proceed with the transfer of the property, Huron County staff will take a report to Huron County Council on this matter.

- At staff request the property owner obtained locates from the utility companies servicing the property to confirm whether any easements would be required for utilities running through the property servicing neighbouring properties and following staff review, no easements are required.

Sale of Land Policy Review

If Council is interested in pursuing the proposal to dispose of portion of Ann Street, staff recommend moving forward with the disposition of land process in accordance with By-Law 42-2013 – By-Law Governing the Sale of Real Property. A copy of this policy is included as an attachment to this report.

Section 3, 6 and 11 of the By-Law provide Council with discretion to deal with this specific situation:

- “3. the manner in which the disposal of real property is conducted may include:
 - Offers of purchase from adjacent property owner(s);
 - Any other process that Council deems acceptable”
- “6. The Offers to Purchase/Sale or agreements shall be submitted to the Clerk”
- “11. The municipality is not required to obtain an opinion of the value for the following classes of land:
 - Closed highways if sold to an owner of land abutting the closed highways.”

The municipality did receive an opinion of value which valued the portion of the road allowance requested to be closed and conveyed was \$100,000.00. The Agreement of Purchase and Sale drafted by the property owner offers to purchase the lands for nominal consideration.

As most of the residence is situated on the municipal road allowance, and has been since 1910, Council would need to decide if using today's value of the property for the conveyance is fair, or whether any funds are required for the conveyance (providing all municipal costs are covered). Council will need to determine whether a deposit is required.

Section 9 of the By-Law provides for a deposit of \$1,000.00 before the commencement of any property disposal. There has been no deposit received nor provided for in the draft Agreement of Purchase and Sale.

Options

1. Do nothing and Council retain the lands as an unopened road allowance with very limited development potential on its own as a house is located on the lands.
2. Council authorize staff to initiate the process to stop up and close the unused portion of Ann Street for future consideration of declaring the lands surplus and exercise their authority, being a direct request from an abutting property owner to purchase an unopened road allowance.

Moving forward, Staff will require Council finalize the following:

1. Determination of Price
2. Authorize Staff Revisions to draft agreement of purchase and sale

Operational Considerations:

There are no operational implications as a result of the actions outlined in this report.

South Huron's Strategic Plan:

Section 6.2.2 of the Municipality of South Huron 2015- 2019 Strategic Plan identifies key priorities and strategic directions. The following elements are supported by the actions outlined in this report:

- ✓ Administrative Efficiency and Fiscal Responsibility
- ✓ Transparent, Accountable, and Collaborative Governance

Financial Impact:

There are no financial implications as a result of the actions outlined in this report. Costs incurred by the Municipality can be recovered through the prospective purchase.

Legal Impact:

There are no legal implications as a result of the actions outlined in this report.

Communication Actions:

Should Council provide direction to proceed with the road closure and conveyance of land, Public Notice is required.

Policies/Legislation:

Municipal Act, 2001

By-Law 42-2013 – By-Law Governing the Sale of Real Property

Consultation:

Senior Management Team and internal staff through circulation
Huron County Planning and Public Works staff
Ed Veldboom, Solicitor

Related Documents:

By-Law 42-2013 – By-Law Governing the Sale of Real Property
Request for Transfer
Opinion of Value
Reference Plan – Registered Instrument #22R-1695
Draft Agreement of Purchase and Sale

Respectfully submitted,

Alex Wolfe, Deputy Clerk

Rebekah Msuya-Collison, General Manager of Corporate Services