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Date: May 10, 2018
To: Mayor and Council
Author: G.A. Plancke / Director of Municipal Services
RE: Forman Rd Surplus
Report No.: MS 2018 - 22

AIM

To advise and recommend to Council that a section of the unopened road allowance known as Forman Road be disposed of in accordance with the Policy for Disposal and Sale of Road Allowances

BACKGROUND

Forman Road is located within the Linden Beach area of Kingsville between Park Ave and Erie Ave and joins to County Rd 50 (Heritage Rd.). It is approximately 220 m in length and 9.1m in width.

Over the last few years, residents that own property along Forman Road have expressed interest in acquiring the unopened section of the Foreman Road allowance. The unopened section represents approximately 100m of the total road allowance length and does not have an accessible road surface. There are no utilities or underground services in the unopened section and no viable plan for installing same in the near or extended future. Many of the local residents have placed structures such as sheds, and patios within the unopened section as there are no clear indications of property limits in this area.

As per the Policy for Disposal and Sale of Road Allowances:

- a)** The Applicant(s) must file the following documentation with the Town:
- i) A correctly completed 'Application to Purchase Road Allowance' form;
 - ii) The purchaser(s) shall be responsible for all costs incurred or required to dispose of the real property including legal, survey, appraisal, encumbrances, improvements, administrative fees, etc.

b) Consent from the abutting property owner(s), indicating their approval of the sale and purchase of the road allowance, as shown on the reference plan.

c) The Town will review the documentation provided and advise the applicant of any deficiencies. Upon presentation of the application to the Town, the request will be circulated to the Municipal Services Department and the Planning Review Committee for comment and to deem it surplus to the Town requirements. The Town Solicitor would conduct a full title search of the subject and abutting properties.

d) Notice is provided by mail to each abutting property owner to the subject road allowance, as determined by the Clerk to obtain any affected interest, ingress or egress to their property. A written response from each abutting property owner is required to address any concerns and to be resolved to Council's satisfaction. The Council approves and declares by resolution the road allowance is surplus and available for sale.

e) Reference Plan Requirements:

i) A reference plan is required for the conveyance and to show all structures and their plotted location on the road allowance to be conveyed;

ii) The road allowance must be identified as a part on the reference plan to be registered at the Land Registry Office for merging purposes.

The Reference Plan is to be prepared by a qualified Land Surveyor and indicate the deposited Plan number on the Plan. Three (3) copies of the reference plan are to be provided to the Clerk with one to be forwarded to the Town Solicitor for transfer purposes.

f) Council shall obtain at least one appraisal of the appraised value of the real property from an independent qualified appraiser who is a registered member in good standing of the Appraisal Institute of Canada.

g) The surplus road allowance is deemed to be a viable building property or a non-viable property in the appraisal and the Town shall offer it for sale at the appraised value to the property owner(s) whose land is adjacent to the road allowance. Each property owner may purchase the abutting portion of the road allowance to the centre line of the road allowance. If an abutting property owner does not wish to purchase that portion of the road allowance, then it shall be offered for sale to the other abutting property owner.

h) In cases, where all abutting property owner(s) whose land is adjacent to the road allowance do not agree to purchase the surplus road allowance at the appraised value and it is considered as a viable building lot, then staff shall notify Council and a recommendation made to offer the surplus road allowance for sale to the public at the appraised value in a manner outlined below in Section 4(J).

i) Notice of intent for the Council to close and sell the surplus road allowance shall be advertised at least once in local newspapers having a general circulation throughout the Town of Kingsville.

j) The road allowance shall be offered for sale to the general public in a manner set as follows:

i) by sealed tender having a closing date of at least 21 days from the first publication of the notice to sell surplus lands. Administration reserves the right to reject any or all tenders if the amount falls to meet the appraised value of the land;
or

- ii) by listing the property for sale with a real estate firm or agent; or
- iii) by public auction.

k) A By-law is approved by the Council to close up and sell the surplus road allowance should no objections be received and a certified copy of the By-law is provided to the Town Solicitor for registration in the Land Titles Office in accordance with the Municipal Act, 2001, as amended.

Should an objection be received, the Council shall consider the objection and may provide Administration with direction on how to proceed with the proposed sale of the road allowance;

l) The Town Solicitor Is instructed to prepare all necessary deeds for conveyance to the purchasers, invoice for all legal, survey, appraisal costs and purchase price and registration of the road closing By-law.

DISCUSSION

The defined section of the Forman Road unopened road allowance is considered a non-viable building lot and as such the Town may offer it for sale at an appraised value to the property owner(s) whose land is adjacent to the road allowance. Each property owner may purchase the abutting portion of the road allowance to the centre line of the road allowance. If an abutting property owner does not wish to purchase that portion of the road allowance, then it shall be offered for sale to the other abutting property owner. The purchaser(s) shall be responsible for all costs incurred or required to dispose of the real property including legal, survey, appraisal, encumbrances, improvements, administrative fees, etc.

It is important to note that agreement of all abutting landowners to acquire the portion(s) which abuts their properties is absolute. Without complete conveyance of the unopened portion of the road allowance the Town will be unable to proceed with disposal.

There are eight (8) property owners whose lands abut the unopened road allowance. Two (2) have formally proceeded to complete the Application to Purchase Road Allowance. Municipal Services would require concurrence from the remaining property owners in order to proceed.

An appraisal to determine land value, and an estimate for legal expenses, survey preparation, encumbrances, and related expenses is required in order to advise residents of the projected costs to the process of acquiring the lands.

Municipal Services has deemed the defined section of the Forman Road allowance “Surplus” to the needs of the municipality.

LINK TO STRATEGIC PLAN

Effectively manage corporate resources and maximize performance in day-to-day operations.

FINANCIAL CONSIDERATIONS

Should Council approve the recommendation there will be costs associated with land appraisal, legal review, and survey preparation to provide initiating residents information on land acquisition costs. These costs have been estimated at less than \$5000, however may not be recoverable should the disposal of the road allowance not be accepted by all potential benefiting residents.

These funds have not been budgeted for in 2018, and as such will be an expense to the General Administration Professional Services Operational budget line.

CONSULTATIONS

Finlay Appraisal and Consultation Services
VSHBB Ontario Land Surveyors
Corporate Services
Financial Services
Municipal Services internal review

RECOMMENDATION

That Council authorize Municipal Services to proceed to obtain an appraisal to determine land value, and determine costs for legal review, survey preparation, encumbrances, and related expenses in order to advise Council and interested purchasing residents of the projected costs and recommended segmentation of the road allowance at a future regular meeting of Council to be determined.

Respectfully Submitted

G.A. Plancke

G.A. Plancke
Director of Municipal Services

Peggy Van Mierlo-West

Peggy Van Mierlo-West, C.E.T.
Chief Administrative Officer