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Public Hearings Committee – July 03, 2025

Subject: Proposed Closure and Conveyance of Part 1 on Plan 37R-7352, being a portion of Old Church Street, Lynedoch
Report Number: CS 25-057
Division: Community and Development Services
Department: Realty Services
Ward: Ward 2
Purpose: For Public Meeting

Recommendation(s):

That Report CS 25-057, Proposed Closure and Conveyance of Part 1 on Plan 37R-7352, being a portion of Old Church Street, Lynedoch be received as information;

And That any comments received as part of the Public Hearings Committee Meeting, in addition to those already received, be considered in a future recommendation staff report.

Executive Summary:

The purpose of this report is to provide Council with information to consider the proposal to declare Part 1 on Plan 37R-7352, being a portion of Old Church Street, Lynedoch, surplus to municipal needs, to authorize the closure of that Part, and approve the conveyance of same to the abutting property owners.

This report is presented as part of the requirement under Policy EBS-22: Permanent Road Allowances, Lanes and Alleys Closure. A subsequent report will be brought forward containing a recommendation.

Discussion:

Norfolk County received an application from Miles Anthony Dobias and Cassandra Victoria Dobias for the closure and conveyance of Part 1 on Plan 37R-7352, being part of Old Church Street, Lynedoch, which is adjacent to their property fronting Old Church Street, Lynedoch, as outlined in red in the attached mapping. The applicants are requesting to purchase Part 1 on Plan 37R-7325 (or a portion thereof) in order to move forward with their residential development.

Background:

Miles Anthony Dobias and Cassandra Victoria Dobias ("Dobias") are the current property owners of 16 Old Church Street, Lynedoch and have submitted an application to purchase a portion of Old Church Street, being Part 1 on Plan 37R-7352 (outlined in red in the attached mapping) which is adjacent to their property. The County, by its predecessor, The Corporation of the Township of Delhi, acquired this piece of land on September 3rd, 1996 from the then adjoining property owner to support a turn-around for vehicles as Road B (formerly Brock Street and also shown on the attached mapping) is an unopened, unmaintained road. By a registered By-Law, Part 1 on Plan 37R-7352 was accepted and assumed as part of Old Church Street. Although this area has been used by local residents for parking, this is not its primary use, nor was it acquired by the County for parking purposes.

The Dobias' are currently building a single-family dwelling on their property. It was discovered through this building process that their garage is currently situated .55 metres from the property line limit of Old Church Street, Lynedoch. To meet the minimum 6.0 metre setback requirement from the limit of Old Church Street, Dobias submitted an application to purchase Part 1 on Plan 37R-7352. The Dobias wish to purchase all of Part 1 on Plan 37R-7352, or at least 5.45 metres of Old Church Street to cover the necessary setback requirement.

Various internal departments are in support of this closure and conveyance, but there are certain conditions which need to be addressed prior to, and as conditions of, this request for closure and conveyance. Engineering is in the process of working with Dobias regarding these conditions. If these conditions are met, there will be no municipal or legislated use for the turn-around being on Part 1 on Plan 37R-7352. For more clarification on these conditions, please see Engineering, Roads and Building comments noted below.

To protect the County's interest, staff would recommend that an Agreement of Purchase and Sale be entered into and the agreed upon condition clauses be inserted into any such Agreement of Purchase and Sale. If and when all conditions are completed and satisfactory to Norfolk County, then Part 1 on Plan 37R-7352 would be closed and conveyed to Dobias.

Pursuant to the County's road closure policy, staff also reached out to the only other property owner who is adjacent to this portion of the road allowance. To date, staff have not received an application from this property owner to purchase any portion of Part 1 on Plan 37R-7352. However, should they wish to purchase a portion, staff will discuss dividing the land in a manner deemed to be fair and appropriate for both adjoining owners, with Dobias purchasing the amount needed to meet the required setbacks.

Merger of Lands:

Policy EBS 22: Permanent Road Allowances, Lanes and Alleys Closure requires that the conveyance of any road allowance, lane or alley merge in title with the abutting owner's property as it is not intended to create a separate lot. Realty staff will ensure that all necessary steps are taken to facilitate the merger of the portion of the road allowance with the applicants' existing parcel.

Valuation and Additional Costs Involved:

Staff Report CS 21-70 established the following valuations for the sale of road allowances, streets, lanes and alleys:

A predetermined valuation based on the geographic location of the road allowance, street, lane and alley sale request is set out below:

a. Rural location

\$12,000 to \$18,000 per acre (workable land) *

Staff is recommending a valuation of \$13,000 per acre, being more reflective of current market values

b. Urban location

\$1.07 per sq. ft. (\$46,609.20 per acre) to \$3.76 per sq. ft. (\$163,785.60 per acre)

Staff is recommending a valuation of \$2.00 per sq. ft. (\$87,120 per acre), being a reasonable increase and more reflective of current market values

c. Unique locations and/or situations (i.e. waterfront area, etc.)

With unique properties or situations, located within rural or urban locations, the County would reserve the right to review each road allowance, street, lane and alley sale request on a case by case basis in regards to the valuation to be applied, and seek an appraisal where it is deemed necessary. The cost of the appraisal would be the responsibility of the applicant(s).

To remain consistent with the Council approved valuation, staff would recommend two options: a) parcel be appraised; or b) the land be sold at the \$2.00 per sq. ft. valuation, given the applicants have agreed to enhance the road municipally known as Road B. In the latter option, the land cost to the Dobias if they bought the whole Part 1 on Plan 37R-7352 would be \$3,761.20 plus H.S.T.

In addition to the above, all other associated costs incurred by the County for the closure and conveyance of this portion of road allowance will be the responsibility of the applicants.

Interdepartmental Comments:

Internal departments were circulated for comments, concerns or objections regarding this closure and conveyance. The following comments were received:

Engineering/EIS

While Part 1 on Plan 37R-7352 currently forms part of Old Church Street, it is best described as a portion of excess road allowance currently used to support a turn-around for vehicles that wish to avoid using Road B (to access Charlton Road to the east) which is a gravel road, not routinely maintained. The original road allowance for Old Church Street as set out by Registered Plan 37B is roughly 12.17m (39.93') wide. There has been some occasional use of the turn-around by local residents for parking, however this is not its primary use and occasional parking could conflict with the purpose of the turn-around. This sets out **Matter #1**.

Prior to the construction of the new home at 16 Old Church Street, it appears that the lands of (or portions thereof) 10 and 13 Old Church Street along with portions of Old Church Street itself, and Road B, drained over and across 16 Old Church Street, with the collected runoff going into the abutting 122.36 acre land parcel to the south west of 16 Old Church Street. The new home construction at 16 Old Church Street has changed the original drainage pattern of the area and caused some localized roadway and property flooding which now requires resolution for the benefit of 10, 13, and 16 Old Church Street as well as portions of Old Church Street and Road B. This sets out **Matter #2**.

Staff understand that waste pickup service (curbside) has been provided (to date) at the intersection of Old Church Street and Lynedoch Road for reasons unknown. The County waste pickup contractor has reviewed Old Church Street and Road B, and confirmed that if Road B was available on a full-time basis, waste pickup could be curbside for the residents as opposed to being collected at the intersection of Old Church Street and Lynedoch Road or alternatively using the turn-around (which has not been used to date). This sets out **Matter #3**.

Part 1 on Plan 37R-7352 is not known to contain any common public utilities within its boundaries.

The request to purchase Part 1 on Plan 37R-7352, or the necessary portion of this land parcel that would provide a 6.0m setback from the structure to a revised boundary for Old Church Street, is supported by Engineering with the following conditions which are intended to **address Matters 1, 2 and 3** set out above:

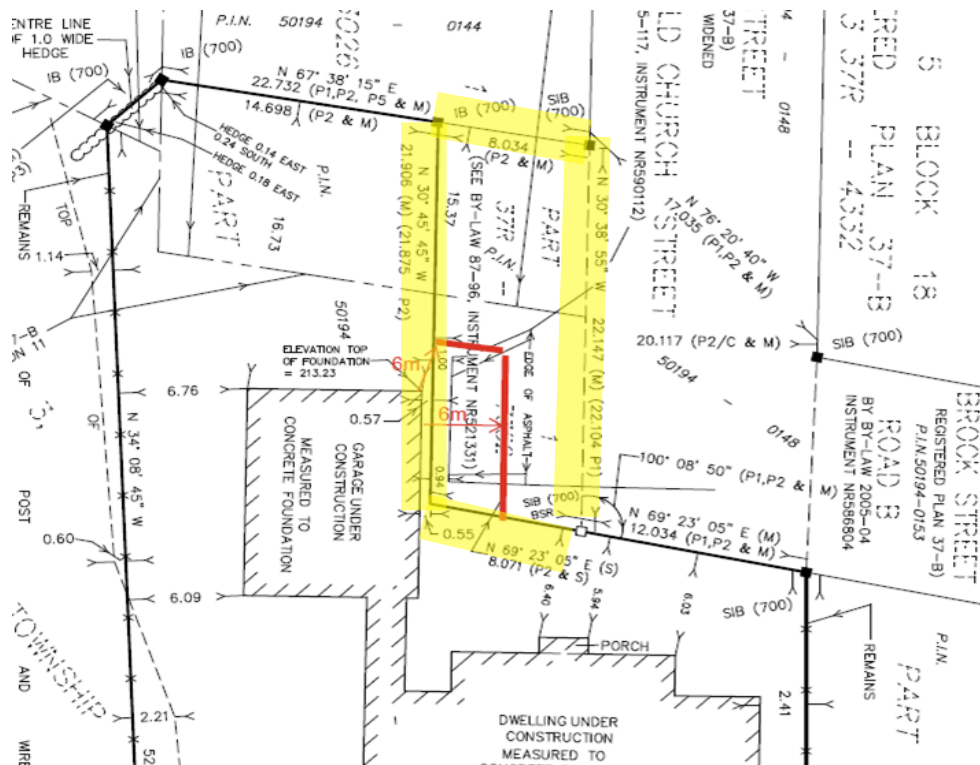
CONDITIONS OF SALE

1. To address Matters 1 and 3: That the Purchaser agrees to enter into a written agreement with Norfolk County to improve Brock Street to a surfaced roadway (asphalt or surface treatment);
2. To address Matter 2: The Purchaser agrees to provide an updated lot/area grading plan (to ensure no negative drainage impacts to neighboring lands) and construct same to the satisfaction of Norfolk County and that the Purchaser further agrees to enter into a Mutual Drain Agreement with Norfolk County (and other landowners whose lands are implicated in providing a drain and outlet) to confirm and protect, into perpetuity, the drainage arrangement;
3. With respect to the urgency of matters for both the Purchaser and Norfolk County, the Purchaser further agrees that:
 1. Interim drainage arrangements by mutual acceptance may be established to protect the home at 16 Old Church Street and public right of way (Old Church Street) from undue harm in the absence of a formalized Mutual Drain Agreement.
 2. Should items 1 and 2 above not advance per the stipulated timelines the Purchaser hereby grants Norfolk County the right to perform the necessary and required works (including access to the Purchasers lands as may be required to perform these works) and to invoice the Purchaser for attributable costs on these matters and further, if required, recover such costs through the property taxation process.

Building

On August 22, 2024, a building permit was issued to construct a single detached dwelling with an attached garage. During construction it was discovered that an error had been made by the applicant at the time of building permit application relating to the ownership of a portion of the property. This resulted in a significant reduction in the setback from the front property line. A Stop Work Order was issued on the subject property as it pertains to the portion of the dwelling that was subject to the error, being the attached garage. The error included Norfolk County Zoning Bylaw 1-Z-2014 which requires a min 6.0m setback from the building to the property line along Old Church Street. According to the as-built survey provided by Kim Hustead, OLS dated November 12, 2024, the building is currently situated at .55m from the property line (Old Church Street). Therefore, a minimum of 5.45m additional land would be required to meet the setback requirements of 6.0m.

Refer to red portion of site plan as pictured below:



Roads

Roads staff agree fully with the conditions and approach outlined by Engineering staff. As is, Part 1 is essential to Roads operations and is used as a turn around for larger fleet vehicles. Without a proper turn around, trucks would have to back out to Lynedoch Road. This is a safety concern and contradicts County policies.

Drainage issues since the construction of the new dwelling have also been a major concern and burden on Road's staff.

Roads staff would support a sale of Part 1 if Engineering's conditions are agreed to and executed by the applicants.

It should also be noted that a portion of the road allowance will be used for used for snow storage. The configuration of the current and/or proposed road will require plow operators to push snow into the front yard (county owned road allowance) of the Dobias' property.

Planning

The property described as 16 Old Church is located within the Hamlet Residential (RH) Zone. Norfolk County Zoning By-law 1-Z-2014 requires a minimum setback of 6.0 metres for the exterior side yard of dwellings within this zone. An application for minor variance ANPL2024417 was intended to correct the issue created through the construction of the dwelling that placed the attached garage 0.55 metres from the property line, a deficiency

of 5.45 metres. The application was heard initially at the Committee of Adjustment meeting on February 19, 2024 and was deferred. It was then heard again at the Committee meeting on April 16, 2024 and was refused, as per the recommendation of Planning staff.

The purchase of Part 1 or a portion thereof could rectify the issue without the need for a new Planning application. A portion of at least 5.45 metres from the attached garage would be required to achieve this.

No other comments or concerns were received from other internal departments.

External Comments:

External service providers were circulated for comments, concerns or objections to the road closure and no concerns were received.

Financial Services Comments:

If Council elects to proceed with the sale of the subject property to the adjoining property owners, upon completion all related revenues and costs are recorded as net proceeds within the net levy at the time of sale. Staff recommend that these net proceeds be transferred to the Land Reserve. As described above, the adjoining property owners are responsible for all costs incurred by the County as a result of the sale of land, therefore, no net levy impact is anticipated as a result of this transaction. This one-time revenue source will increase the balance of the reserve.

Regard for Public Input:

The proposed closure and conveyance of Part 1 on Plan 37R-7352, being part of Old Church Street, Lynedoch, was advertised in the local newspapers and on the Norfolk County website throughout the month of June. At the time of writing this report, staff did receive a telephone call from the one other adjoining property owner, who has yet to decide whether he wishes to purchase any portion of this road allowance. Staff are currently working with this adjoining property owner to find a resolution that could satisfy all parties involved.

Consultation(s):

General Manager, Community and Development Services
Director of Planning
Engineering
Building
Roads
Finance

Strategic Plan Linkage:

This report aligns with the 2022-2026 Council Strategic Priority Serving Norfolk - Ensuring a fiscally responsible organization with engaged employees who value excellent service.

Explanation: The direction that Council provides with respect to the requested closure and conveyance of the road allowance will assist Council in meeting its priority initiatives in “Serving Norfolk” by divesting itself of assets that are no longer strategic for the County’s long-term needs assuring oversight and accountability for the County’s finances.

Conclusion:

Declaring Part 1 on Plan 37R-7352 surplus to municipal needs and authorizing the closure and conveyance of same to the adjoining property owners is a strategic approach to better align the County’s needs and objectives for improving our infrastructure, while at the same time divesting itself of lands that would thereafter have no significance to the County’s present or future needs.

Attachments:

GIS Mapping

Approval:

Approved By:
Bill Cridland, General Manager, Community and Development Services

Reviewed By:
Bohdan Wynnyckyj, Director of Planning and Realty Services

Prepared By:
Karen Lambrecht, Realty Services Specialist

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