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Council Meeting – September 23, 2025

Subject: Request for Closure and Conveyance of Bay Street, Plan 436, now Livery Lane; Norfolk County
Report Number: CDS-25-051
Division: Community and Development Services
Department: Planning and Realty Services
Ward: Ward 1
Purpose: For Decision

Recommendation(s):

That Report CS-25-051, Request for Closure and Conveyance of Bay Street, Plan 436, now Livery Lane; Norfolk County, be received as information;

And That Bay Street, Plan 436, now Livery Lane; Norfolk County, as set out in the report, be declared surplus to municipal needs, approved for closure and conveyance to 2610276 Ontario Inc., at a valuation of \$8.03 per square foot;

And That Council provide an exemption to Policy EBS-22: Permanent Road Allowances, Lanes and Alleys Closure to convey a road allowance leading to and abutting a body of water;

And That the property owner be responsible for all costs associated with the process for closure and conveyance of Bay Street, now Livery Lane, as set out in the report, including but not limited to, all relevant surveying costs, title searching costs, appraisal costs, advertising costs and all document registration costs;

And Further That the net proceeds from the sale of the subject property be recorded as revenue in the current year's operating budget, with the net proceeds to be transferred to the Land Reserve.

Executive Summary:

At the Public Hearings Committee (PHC) meeting of June 4th, 2024, Council approved the following recommendations:

THAT Report CS 24-076, Proposed Closure and Conveyance of Bay Street, Plan 436, Now Livery Lane; Norfolk County be received as information;

AND FURTHER 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.

At the Council meeting of October 16th, 2024, under report CS 24-104, Council directed staff to obtain a Reference Plan of the subject lands and determine the water's edge in relation to same, and to continue discussions with the applicant.

Further, at the Council meeting of January 22nd, 2025, staff provided an update to Council on the matter in closed session.

The purpose of this report is to seek Council's direction to:

- Declare Bay Street, Plan 436, now Livery Lane; Norfolk County, surplus to municipal needs and to authorize the closure of same;
- Authorize the conveyance of Bay Street, Plan 436, now Livery Lane to the adjacent property owner(s);
- Authorize a valuation as a selling price.

As per policy, all road allowance, lane and alley closure and conveyances are heard in open session to declare the lands surplus, authorize the conveyance and establish a valuation.

Discussion:

Background

Bay Street, now Livery Lane, hereinafter referred to as "Livery Lane", was established by the registration on title of Subdivision Plan 436. This street was dedicated as a public highway by that Plan and as such falls under the ownership of Norfolk County. By-Law 2006-114 was registered on title as Instrument Number NR600546 on May 11th, 2006, changing the name of Bay Street, Plan 436 to Livery Lane due to confusion of the location of the street. Livery Lane is illustrated on the attached Schedule "A" as outlined in red. It is an open, maintained and traveled street.

As shown in purple on the attached mapping, 2442922 Ontario Inc. is the current property owner of 37 Rogers Avenue, 2610276 Ontario Inc. is the current property owner of 90 Rogers Avenue, and 2610274 Ontario Inc. is the current property owner of the remnant parcel fronting onto Rogers Avenue. All three (3) numbered companies are owned by the same individual. Through these numbered companies, applications have been received to purchase Livery Lane adjacent to all three (3) properties. The property located at 39 Rogers Avenue operates as Old Cut Boat Livery and includes boat rentals, a boat launch, a store, "The Chip Ship" as well as additional public services. Old Cut Boat Livery has been in the applicants' family for close to one hundred (100) years. Additionally, Livery Lane exclusively serves the applicants' properties, including their cottage property located at 37 Rogers Avenue. There are no additional private property owners that have or

require frontage onto Livery Lane, nor would the closure and conveyance landlock or restrict access to any other private property owner.

Staff have completed an in-person site inspection of Livery Lane and can confirm that this portion of road requires a considerable amount of maintenance and staff time to bring it up to an acceptable standard for public access. There are several uneven, potholed areas along this portion of road making it difficult to navigate and causing water accumulation. Closing and conveying this portion of Livery Lane would hold the applicants responsible for the maintenance and repair of the road moving forward, resulting in Norfolk County no longer being responsible or liable for this portion of Livery Lane, providing cost savings to Norfolk County.

Further Discussions

As per Council's direction, staff secured a draft Reference Plan of the subject lands in relation to the water's edge, as attached. Livery Lane is shown as Part 1 on the draft Plan.

Additionally, staff met with the applicants on March 12th, 2025, to discuss the file further. As noted in the meeting, the applicants raised some concerns regarding the accuracy of the appraised value and the basis of the appraisal, as discussed with staff. The applicant also raised concerns regarding the ownership of the applicant's lands that are currently submerged.

To address these concerns, staff have obtained a Technical Review from Oakview Appraisals of the original appraisal secured by Antec Appraisal Group and sought a legal review/opinion of staff's findings of the ownership of the submerged parcels from external legal. These findings are discussed below with the valuation.

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 applicants' abutting property as it is not intended to create a separate lot. Realty staff will ensure that the necessary steps are taken to facilitate the merger of Livery Lane with the applicants' existing parcel in the ownership of 2610276 Ontario Inc. to avoid a landlocked situation.

Valuation

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 regard 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).

According to Policy EBS-22 and Staff Report CS 21-70 as noted above, the County reserves the right to review each road closure on a case by case basis in regard to the valuation to be applied. Given the uniqueness of this location due to its proximity and access to the water's edge of Lake Erie, the boat launch located within the road allowance, and the road allowance facilitating access to the adjacent businesses operated by the applicants, staff obtained a Narrative Appraisal Report for the lands by Antec Appraisal Group.

The appraisal obtained is based on the current market conditions and is valued in accordance with its highest and best use. In this case, the highest and best use was determined to be value in contribution/assembly to the adjacent property being the marine commercial property to the east in which the property owner may use the subject property to increase site area for parking, boat trailer storage etc. for the existing development.

Additionally, staff secured a Technical Review of the above-mentioned appraisal due to concerns raised by the applicant with the basis of which the appraised valuation was determined and information provided in report CS 24-104. The review appraiser's opinion was that the overall market value of the subject lands was within the range of fair market value but at the low end of the range.

The table below provides Council with a comparison of sale prices based on the appraised current market value, Technical Review of the appraised current market value, the Council approved valuation of \$2.00 per square foot and the high end of the Council approved predetermined valuation:

Street	Estimated Property Size (sq.f.) per draft RPlan	Council Approved Standard Valuation \$2.00 p.s.f.	Council Approved High End of Valuation \$3.76 p.s.f.	Appraised Valuation (Antec) \$8.03 p.s.f.	Technical Review of Antec Valuation (Oakview)
Livery Lane	15,395.24	\$30,790.48	\$57,886.10	\$123,623.78	Within Range to Low End of Fair Market Value

As the acquisition and merger of the road allowance will increase the applicants' adjacent parcel size and value, in order to maximize the monetization for the land, staff recommend that Council directs staff to proceed with the appraised valuation of \$8.03 per square foot. Staff also wish to note that although the applicants have been maintaining and upkeeping the subject lands in conjunction with the County throughout the years, the draft Reference Plan exhibits multiple encroachments onto the County lands in which the applicants' and its businesses are currently (and historically) benefiting from.

In addition to the cost of the land, all associated costs incurred by the County for the sale of the road allowance are the responsibility of the applicants.

Ownership and Waterfront Lands

Both staff and the applicants have sought legal advice regarding the determination of the subject lands being considered waterfront lands with access to the channel. As shown on the attached mapping and Reference Plan, one of the applicants' parcels extends along the southerly limit of Livery Lane. This portion of the applicants' parcel is currently submerged, along with a portion of Livery Lane, as per the draft Reference Plan (subject to seasonal water fluctuations). It is staff and legal counsel's opinion that in the absence of an 'express grant' to the applicants, which would include specific wording granting the bed of the body of water, it did not intend to pass and did not pass to the applicants. This would conclude that Livery Lane has a connection to the water and benefits therefrom.

Easement

External service providers were circulated with respect to the road closure. HydroOne responded that they have plant in this location and will require an easement prior to the conveyance taking place. Realty Staff will work with HydroOne and its solicitors to ensure

an easement is registered prior to conveyance to the applicant(s). Realty staff received no other concerns or requirements from external service providers.

Policy Exemption

Policy EBS-22: Permanent Road Allowances, Lanes & Alleys Closure states that a request to close and convey a road allowance, lane or alley will not proceed if: (f) the parcel of land leads to or abuts any body of water.

As this is a unique circumstance, staff are recommending that Council provide an exemption to the policy to close and convey the subject lands to the adjacent property owners. Additionally, staff have obtained confirmation from the Ministry of Natural Resources that they consent to the conveyance of lands to the adjoining property owners.

Finance Comments:

If Council elects to proceed with the sale of the subject property to the adjoining property owner, 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 owner is 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.

If Council chooses to retain the subject property, staff recommend that a capital project be identified in the Proposed 2026-2035 Capital Plan for the repair of Livery Lane. Preliminary estimate for this work is approximately \$11,000.

Interdepartmental Implications:

County departments were circulated for comments or objections to the road closure and the following comments were received and noted in Public Hearings Committee Meeting Report CS-24-076:

Engineering

Engineering has no objection to the sale, however the following should be addressed in due course:

- 39 Livery Lane should secure right of passage over the former Livery Lane parcel so as to not become land locked, creating an undevelopable parcel
- Future funds will be required to be allocated to provide a proper termination for Rogers Avenue. This would provide a proper turn-around for maintenance and

public. The formalization would also serve to inform the public that they have reached the terminus of the public right of way

- Hydro One has a secondary overhead to the Livery Store that may require an ariel easement
- Sign to be placed following sale – indicating ‘private lane’ and the green ‘Livery Lane’ sign will be removed.

Should the sale not proceed – an encroachment agreement for the private boat launch and parking operations within Livery Lane is required.

Consultation(s):

Chief Administrative Officer
General Manager, Corporate Services
Treasurer/Director, Finance
General Manager, Community and Development Services
Director, Planning and Realty Services

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.

Attachment(s):

- GIS Mapping
- Draft Reference Plan of Livery Lane

Approval:

Approved By:
Al Meneses, Chief Administrative Officer

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

Prepared By:
Kelly Darbishire, Realty Services Specialist