



Corporation of the Township of Brock

Staff Report to the Mayor and Members of Council

From: Fernando Lamanna

Position: Deputy CAO & Municipal Clerk

Title / Subject: Sale of Unopened Laneway - Sunderland

Date of Report: January 31, 2025

Date of Meeting: February 10, 2025

Report No: 2024-GG-040

1.0 Issue / Origin

The Unopened Laneway is located south of River Street and east of Albert Street. The subject lands are legally described as Lane, Plan 79; Brock, Regional Municipality of Durham, PIN No. 72004-0248 (LT).

The Unopened Laneway is part of an old plan subdivision, Plan 79, and has always been “unopened”.

“Unopened” means a roadway that is not maintained by the Township and may not meet current road standards.

In some cases, an unopened laneway or roadway, may be restricted to public access, by means of a By-law. Restricted access may also take place with natural tree and vegetation growth or by means of barricades. This laneway is not barricaded or restricted to vehicular access as the laneway has been used and maintained by adjacent landowners to the east that utilize the laneway to access their properties. The Township of Brock does not currently have any restricting By-law on any unopened roadways.

The Township by rights of ownership, is responsible for any liability on Township owned lands. In allowing vehicular traffic on an unopened laneway, poses greater liability risks given that the laneway is not maintained to appropriate standards, and as such would be in the Township’s best interest to divest its ownership in the lands.

This report is part of the public process as it relates to the consideration of selling the Unopened Laneway in Sunderland.

2.0 Background

The Unopened Laneway has been utilized by the adjacent landowners over the years with upkeep and snow removal at their own responsibility and costs and without benefit of having a formalized agreement between the Township and landowner(s).

In the mid 1990's the Township had addressed complaints on the laneway in relation to snow removal and access/use. On January 29, 1996, Council passed a resolution initiating the potential sale of the Unopened Laneway to the adjacent owners. Later that year and following discussions with the adjacent owners, Council decided to keep the laneway in its present form and put the responsibility of snow clearing and maintenance onto the adjacent landowners. Staff note that the responsibility of snow clearing, and maintenance was without the benefit of any agreement.

Similar to the issues raised in the 90's, Township staff were faced with recent concerns about access and use of the Unopened Laneway.

July 2024, Council received written requests from two adjacent landowners (Bertram & Zare), to purchase the laneway or a portion of the laneway. In response Council commenced the process of potential selling of the laneway including the direction to staff to entertain discussions with adjacent landowners.

A Public Meeting was held on November 18, 2024, to hear any concerns or interest from residents with respect to the potential of selling the Unopened Laneway. There were 7 individuals that spoke at the public meeting, including the two interested parties (Bertram & Zare) that had previously written to Council in July.

3.0 Analysis

General Considerations & Public Input:

Staff analyzed various options as it relates to either selling the laneway in whole or in parts and provide the following:

- a) Upon reviewing copies of surveys, staff had identified a slight encroachment of the Masonic Lodge onto the southern portion of the laneway. Should Council proceed with any sale of the Unopened Laneway, it would be beneficial to the Masonic Lodge to split a portion of the laneway on the south end to convey to Masonic Lodge and clear up any encroachment issues.
- b) The garage property located off the southeast corner is independently owned by Gary Bertram and used as a commercial business. Consideration must be given to this property as the property does not currently have frontage on an assumed road (Albert St.). As such any sale of the laneway or portion of the laneway must take into consideration the fact that this property cannot be landlocked.

Staff have formulated the options as shown on Schedule “1”, attached, whereby a sliver of land (Part 1), off the southern portion of the unopened laneway would resolve encroachment issues for the Masonic Lodge. Part 2 identified as the South “L” could resolve any issues of landlocking the Bertram garage, and Part 3 could be considered for sale as Council may determine best, including the option to sell to the property owners at 67 River Street (Zare).

During the public meeting held on November 18, 2024, Mr. Bertram noted that his wife owns the property at 7 Albert Street and given that her property does not have a driveway, he asked Council to consider selling the south portion of the laneway to her to add to her land parcel so that there would be a driveway, and that the remainder of the laneway be sold to him to give his commercial garage road frontage, via the north part of the laneway. This proposal is as shown on Schedule “2”, attached.

Options to Sell Laneway:

Council has the authority to determine the means of selling the laneway, including the choice of who the laneway is sold to. Those options (in no particular order or preference) are presented below.

Option 1 – Do Nothing:

Similar to the exercise in the mid 1990’s, the Township has the right to not sell the entire laneway and leave the laneway as unopened. Challenges with this option may include the Township’s due diligence in ensuring the laneway is free and clear from any obstructions at all times, and the risk with liability. The later being of greater concern, especially if there is no formal agreement to maintain and use the laneway.

Option 2 – Sell to both interested parties:

The Township may sell the South “L” to Mr. Bertram and the North “L” to Mr. Zare as both parties formally requested the purchase of a portion of the laneway. Council has the authority under the Municipal Act to sell the laneway to private interested parties. Staff have sent direct mail notifications to all abutting neighbours and no other property owners, other than Mr. Bertram and Mr. Zare have shown any interest. The only draw back with this option is that Mr. Bertram has shown interest as well in the purchase of the North “L”.

Option 3 – Sell laneway via public tender:

The Township may choose to sell the whole laneway, or a portion of the laneway, via public tender with the submissions being under sealed envelopes. However, if the highest bid goes to anyone other than Mr. Bertram, his garage will be land locked from having access to a public road.

Staff Recommendation on the Sale of the Laneway:

As there is more than one interested party in purchasing portions of the laneway, staff are proposing the following split and sale of the laneway, as shown on Schedule "1" attached:

- Part 1 to be conveyed to the Masonic Lodge to clear any encroachment issues.
- Part 2 "South L" to be sold and conveyed directly to Gary Bertram, owner of the commercial garage. The price to be established by the Township at fair market value as outlined in the Closed Session Report No. 2024-GG-023 "Establishment of Land Purchase Price".
- Part 3 "North L" to be sold by means of a Public Sealed Tender. The minimum starting bid to be established by the Township at fair market value as outlined in the Closed Session Report No. 2024-GG-023 "Establishment of Land Purchase Price".

Utility Locates:

Staff had ordered locates for all utilities within the laneway. The locates were received mid-December and are attached as Schedule "3". Upon review there does not seem to be any impact with utilities within the laneway with the exception of the gas line and meter on the north portion of the laneway that services 3 Albert Street (Bon Bistro).

As locates are an estimation of underground infrastructure and not having a survey that outlines property boundaries, it is difficult to say that the gas meter and underground line are within the Township's owned property.

Staff recommend that if Council were to proceed with any type of sale, that when the surveyor conducts their onsite works, that they be notified of the potential encroachment of the gas meter and underground gas line. If the draft survey confirms an encroachment for the gas meter and gas line, then staff would suggest that it be identified as a separate part on the survey for the purposes of implementing a permanent easement over that part. The alternative, would be asking the owner of 3 Albert Street to remove their encroachment.

4.0 Related Policies / Procedures

F21 Sale and Other Disposition of Land policy

5.0 Financial / Budget Assessment

Any costs related to surveying the laneway and the legal costs with respect to conveying the laneway will be covered and included in the purchase price. Net proceeds from sale of land, are placed in the Rate Stabilization Reserve.

Additional property tax will be evaluated by MPAC and incorporated in any future assessment revaluation along with the purchaser's existing property.

5.1 Asset Management

As noted in the report The Township by rights of ownership is responsible for any liability on Township owned lands. In allowing vehicular traffic on an unopened laneway, poses greater liability risks and as such would be in the Township's best interest to divest its interest in the lands.

6.0 Climate Change Impacts

There is no climate change impacts as it relates to this report.

7.0 Communications

Along with this report being published on a public agenda, advisement to those interested parties (Bertram & Zare) were sent via email or fax.

Any public sale through a tender process will be advertised on the Township's website.

8.0 Conclusion

The unopened laneway is not sized appropriately that it would benefit the Township to hold onto it. Additionally, with adjacent residents using the laneway and maintaining the laneway, there is an inherent liability that the Township should remove by selling the unopened laneway.

9.0 Recommendation

Be It Resolved That Report No. 2024-GG-040 entitled "Sale of Unopened Laneway - Sunderland", be received; and

That Council declare the Unopened Laneway -Sunderland as surplus and direct staff to prepare a "Stop-Up and Close" By-law to be presented on the February 24, 2025 agenda; and

That Council approve the following split and sale of the Unopened Laneway, as shown on Schedule "1" attached and described as follows:

- Part 1 to be conveyed to 5 Albert Street, Lot D, Plan 79, PIN # 72004-0250, owned by Trustee of King Edward Masonic Lodge No. 464, to clear any encroachment issues.
- Part 2 "South L" to be sold and conveyed directly to Gary Bertram, owner of the commercial garage, legal description of Part Lot 29, Plan 26, PIN No. 720040245. The price to be established by the Township at fair market value as outlined in the Closed Session Report No. 2024-GG-023 "Establishment of Land Purchase Price".
- Part 3 "North L" to be sold by means of a Public Sealed Tender. The minimum starting bid to be established by the Township at fair market value as outlined in

the Closed Session Report No. 2024-GG-023 “Establishment of Land Purchase Price”; and

That Council authorize staff to proceed with the services of an Ontario Land Surveyor, to survey the unopened laneway; and

That Council authorize the Mayor and Clerk to execute all required documents necessary to complete the transactions in selling the unopened laneway – Sunderland.