



Regular Council Meeting

To:	Mayor and Council
Date:	May 2, 2022
From:	Cindy Page, Clerk John Connolly, Executive Director of Planning and Development
Report Number:	Corporate Services 2022-04
Subject:	Disposition of Land - 1066 Syer Line

Recommendations:

1. That Council declare its land holdings at 1066 Syer Line as surplus; and
2. That Council support a Request for Proposal (RFP) process for 1066 Syer Line as per the Disposition of Land By-law No. 2016-07; and
3. That Council direct Staff to carry out an independent appraisal on 1066 Syer Line.

Overview:

At the Regular Council Meeting held February 22, 2022 Council passed the below motion:

**That Council receive Report Planning 2022-09 Update: Status Report – 1066 Syer Line for information; and
That staff report back on the options for disposition of 1066 Syer Line as per the By-law.**

Background:

The Disposition of Land By-law No. 2016-07 (Attachment No. 1) outlines the process as well as the various options available for Council's consideration. The requirements and process is outlined below:

Section 4 of the By-law requires that prior to offering any surplus land for disposal, the Clerk shall obtain an appraisal of the land. The appraisal shall be deemed a confidential document to be used solely as a guide to Council. However, if Council feels that an appraisal is not warranted then the appraisal would not be required and this would be included in its resolution. However, legal counsel have advised that an independent appraisal would be desirable to objectively inform the purchase price and support

compliance with the anti-bonusing provision of the Municipal Act, 2001, which prohibits the sale of municipal property at below fair market value.

Under Section 6.1:

Prior to disposing of any viable property, Council shall pass a resolution at a meeting open to the public; declare the land to be surplus to the needs of the Municipality.

Under Section 7.1:

Council shall, in the same resolution indicating its intent to dispose of real property, direct that notice be provided to the public as least fourteen (14) days prior to the passage of the by-law approving the disposal of the property. The methods of notice may include the following:

- a) Publication in a local newspaper or newspapers;
- b) Publication on the Municipal website;
- c) Publication on other professional websites which may include; Realty.ca and/or MLS.ca, should a licensed realtor be secured;
- d) Posting a sign on the property indicating the Municipality's intent to sell;
- e) Any other means of communication acting reasonably and in good faith that is deemed to be appropriate in the circumstances, in order to give notice to the public.

Under Section 8, viable property shall be disposed of, or receive offers to purchase solicited by, one or more of the following methods or by any terms directed by Council:

- a) Public auction
- b) Public tender
- c) Direct negotiation and sale
- d) Listing with a licensed realtor
- e) Land exchange
- f) Call for proposal (RFP)

Discussion:

Based on legal counsel, Staff are recommending that the Township dispose of 1066 Syer Line through a Request for Proposal (RFP) process. The RFP would be crafted to solicit an "Offer to Purchase" from interested proponents, on terms and conditions specified in the RFP document. A successful proponent would be "awarded" the RFP, at the Township's discretion and in accordance with the terms of the RFP, in the form of acceptance of its Offer to Purchase, and the proponent and the Township would subsequently enter into an Agreement of Purchase and Sale in respect of 1066 Syer Line.

A carefully and clearly written RFP would be the best way to secure the terms and conditions that the Township wishes to see. A detailed RFP would commit proponents to certain terms in any compliant bid to purchase 1066 Syer Line. These terms can include the types of uses or development concepts, timelines for developing the lands (i.e. development milestones), and the legal mechanisms the Township intends to use

to secure these matters. The RFP would also be written to provide the Township flexibility in reviewing bids/evaluation process, and reserve the right to not accept any bid, or cancel the RFP altogether.

In contrast, if the Township were to simply list the property for sale with a realtor, the sale becomes an open negotiation. Potential purchasers would have no obligation to agree to the terms and conditions the Township is seeking, and would also be free to back out of negotiations during the process.

The other options in the Disposition of Land By-law (outlined above) are also not recommended. Similarly, these options do not have a mechanism to ensure a potential purchaser will agree to certain terms and conditions, other than voluntary agreements, which may not be likely or unenforceable.

Section 10 of the By-law outlines the terms of disposition and exemptions noting that notwithstanding that even if the public notice of the intended disposition has been given and that one or more interested parties may present to Council an Offer to Purchase the real property, nothing shall restrict the absolute discretion of Council to retain the land or to dispose of the land on such terms and conditions as may be fixed by Council, which shall include the power to sell the real property for nominal consideration (subject to the anti-bonusing provisions of the Municipal Act, 2001 as it may be amended from time to time), and to whomever it wishes, regardless of whether the disposition is to the party which apparently has presented the best offer.

In light of the significant time and resources that the Township has invested in purchasing the land, completing background studies and seeking an Official Plan Amendment (OPA) and Zoning By-law Amendment (ZBA) to permit Rural Employment on these lands and the original intent for the public purchase of the lands, Staff are recommending drafting a Request for Proposal (RFP) process as the preferred disposition process for 1066 Syer Line as per the Disposition of Land By-law No. 2016-07.

Financial Impact:

A great deal of financial and Staff resources have already been expended purchasing the land and conducting background studies in support of the OPA and ZBA (also on the Council agenda). The additional financial impact may include the cost of the appraisal of the land and associated fees surrounding the sale of the land and legal fees.

There is also the intent to recoup the costs of the various studies that had to take place during the justification on the planning process.

Attachments:

Attachment No. 1: By-law No. 2016-07 being a by-law to establish a policy and procedure for the sale and other disposition of land

Attachment No. 2: Map of 1066 Syer Line

Respectfully Submitted by,

Reviewed by,

Cindy Page
Clerk

Yvette Hurley
Chief Administrative Officer

John Connolly
Executive Director, Planning and Development

The Township of Cavan Monaghan

By-law No. 2016-07

Being a by-law to establish a policy and procedure for the sale and other disposition of land

Whereas the Municipal Act, 2001, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

And Whereas the Municipal Act, 2001, as amended, stipulates that a municipality shall adopt and maintain policies with respect to the sale and other disposition of land;

Now Therefore the Council of the Township of Cavan Monaghan enacts as follows:

1. Purpose:

This By-law is enacted for the purpose of establishing a policy and procedures, including the giving of notice, governing the disposition of land that is surplus to the Corporation of the Township of Cavan Monaghan and to foster the following principles in order that the best interests of the Municipality are advanced and maintained when the disposition or potential disposition of land is considered:

- i. Consistency and due process,
- ii. Transparency and accountability, and
- iii. Flexibility and responsiveness.

In addition to disposing of land that has been declared surplus to the needs of the Municipality to meet its current or future program and operational requirements, Council also acknowledges that the disposition of land may be required or deemed in the best interests of the Municipality for other reasons such as economic growth, income, job creation, community development, and to correct title/ownership issues.

2. Definitions:

Abutting land means land that has a common boundary with the land owned by the Township of Cavan Monaghan.

Act means the Municipal Act 2001, as amended.

Appraisal means an independent written fair market evaluation of land (and including any improvements thereon) by a certified real estate appraiser (CRA).

Chief Administrative Officer means the Chief Administrative Officer of the Township of Cavan Monaghan.

Clerk means the Clerk of the Township of Cavan Monaghan.

Council means the Council of the Township of Cavan Monaghan.

Disposition, Disposal and Dispose means the sale, transfer, conveyance or exchange of land, or the granting of a lease for a term of twenty-one (21) years or longer, but does not include the granting of an easement or right of way.

Licensed Realtor means a realtor licensed and in good standing with the Real Estate Council of Ontario and who has experience in the Township of Cavan Monaghan.

Non-Viable Property means a parcel(s) of land for which a building permit cannot be granted because either it is landlocked, or because it is of insufficient size and shape to permit development unless developed in conjunction with abutting land.

Surplus Land means land and structure(s) which the municipality does not require ownership of to meet its current or future program and operational requirements and has been declared surplus under this by-law.

Viable Property means a parcel of land, which, on its own, would be eligible for a building permit, or can be assembled with other land to increase the development or redevelopment potential of the whole, and includes any parkland or part of any park.

3. Request to Purchase Land

3.1 All inquiries regarding the possible purchase and sale of municipally owned land shall be directed and kept in the Clerks Department.

3.2 Individual persons or corporations interested in acquiring land owned by the Township, shall provide a letter of request to the Clerk. The letter of request shall contain:

- a) the municipal address of the individual, contact information of the person or corporation making the request;
- b) the reasons for or the purpose of the request to purchase the land including the proposed or intended use and whether the applicant owns abutting land;
- c) the address and/or legal description;
- d) a survey, map or location sketch of the said lands;
- e) the dollar amount or lands proposed to be exchanged as consideration.

3.3 The Clerk shall verify that the land in question is owned by the municipality, and shall circulate the request to the Township's Department Heads/Directors for feedback, to determine if it is appropriate to dispose of

the land, or if there are reasons why the Municipality should not dispose of the land at this time. Staff may recommend conditions to the sale of the land.

- 3.4** Recommendations from Department Heads/Directors and any conditions that should be imposed on the disposition shall be made to the Clerk.
- 3.5** If it is the consensus of the Department Heads/Directors that staff will not support the sale of land, the Clerk shall inform the requester of this decision. The requester may then address as a delegation at a Regular Council meeting if they wish to seek an alternate outcome.
- 3.6** The requester, upon receipt of comments provided under section **3.5** above, if unsatisfied may then appear as a delegation at a Regular Council meeting if they wish to seek an alternative outcome.

4. Appraisal

- 4.1** Prior to offering any surplus land for disposal, the Clerk shall obtain an appraisal of the land. The appraisal shall be deemed a confidential document to be used solely as a guide to Council.
- 4.2** Notwithstanding the above requirement, the Municipality shall not be required to obtain an appraisal where staff direction is provided by Council resolution, that an appraisal is not warranted for a particular parcel of land.

5. Costs of Disposal

- 5.1** All of the Municipality's costs associated with the disposition of viable property, including the transfer for a nominal amount, shall be borne by the party or parties acquiring the land, unless otherwise directed by Council.
- 5.2** All of the Municipality's costs with respect to the disposition of non-viable property save and except a land exchange for municipal purposes, shall be recovered from the purchaser or lessee, unless, in the sole opinion of the Municipality, it is desirable to waive this requirement. In addition, the applicant may be required to enter into an agreement to the satisfaction of the Municipality and pay a deposit toward the expected costs to be incurred by the Municipality.

6. Declaration of Surplus Land

- 6.1** Prior to disposing of any viable property, Council shall pass a resolution at a meeting open to the public; declare the land to be surplus to the needs of the Municipality.

7. Notice

7.1 Council shall, in the resolution indicating its intent to dispose of real property, direct that notice be provided to the public at least fourteen (14) days prior to the passage of the by-law approving the disposal of the property. The methods of notice may include the following:

- a)** Publication in a local newspaper or newspapers;
- b)** Publication on the Municipal website;
- c)** Publication on other professional websites which may include; Realty.ca and/or MLS.ca, should a licensed realtor be secured;
- d)** Posting a sign on the property indicating the Municipality's intent to sell;
- e)** Any other means of communication acting reasonably and in good faith that is deemed to be appropriate in the circumstances, in order to give notice to the public.

8. Disposal of Land

8.1 Viable property shall be disposed of, or receive offers to purchase solicited by, one or more of the following methods:

- a)** Public auction
- b)** Public tender
- c)** Direct negotiation and sale
- d)** Listing with a licensed realtor
- e)** Land exchange
- f)** Call for proposal (RFP)

8.2 Where the Chief Administrative Officer chooses to list the land for sale with a licensed realtor, the said realtor shall be determined through a competitive process for purchasing services in accordance with the Corporation's procurement policies.

8.3 Where the Chief Administrative Officer receives a reasonable offer, he/she shall either:

- a)** Reject the offer;
- b)** Make a counteroffer;
- c)** Make a recommendation to the Council to accept, reject or make any counteroffer.

8.4 The Council may, on its own initiative or on the recommendation of the Chief Administrative Officer, agree to dispose of land on any terms.

9. Exempt Classes of Land

9.1 The following classes of land are exempt from the requirements of sections 3 to 8 inclusive:

- a) All cemetery plots;
- b) Any land transferred to the Municipality for security or for temporary roads or other works in connection with any agreement to which the Municipality is party under the Planning Act, as amended;
- c) Land 0.3 metres or less in width acquired in connection with an approval or decision under the Planning Act, as amended;
- d) Property being repurchased by an owner in accordance with the Expropriations Act, as amended.

9.2 All classes of land listed in section **9.1**, except property owned by the Municipality that is zoned for industrial uses, shall be disposed by the Municipality on any terms as approved by the Chief Administrative Officer or Council.

10. Terms of Disposition and Exemptions


10.1 Notwithstanding that the public notice of the intended disposition has been given and that one or more interested parties may present to Council an Offer to Purchase the real property, nothing shall restrict the absolute discretion of Council to retain the land or to dispose of the land on such terms and conditions as may be fixed by Council, which shall include the power to sell the real property for nominal consideration (subject to the anti-bonusing provisions of the Municipal Act, 2001 as it may be amended from time to time), and to whomever it wishes, regardless of whether the disposition is to the party which apparently has presented the best offer.

10.2 Notwithstanding sections **6** and **7**, non-viable properties are exempt from the declaration of surplus land and notice provisions of this By-law, and can therefore be sold by the Municipality without the need to declare intent to sell or give notice, unless otherwise directed by Council.

11. Repeal of Previous By-law

11.1 That By-law Number 2007-64 being a by-law to establish policies for the sale and other disposition of land be repealed in its entirety.

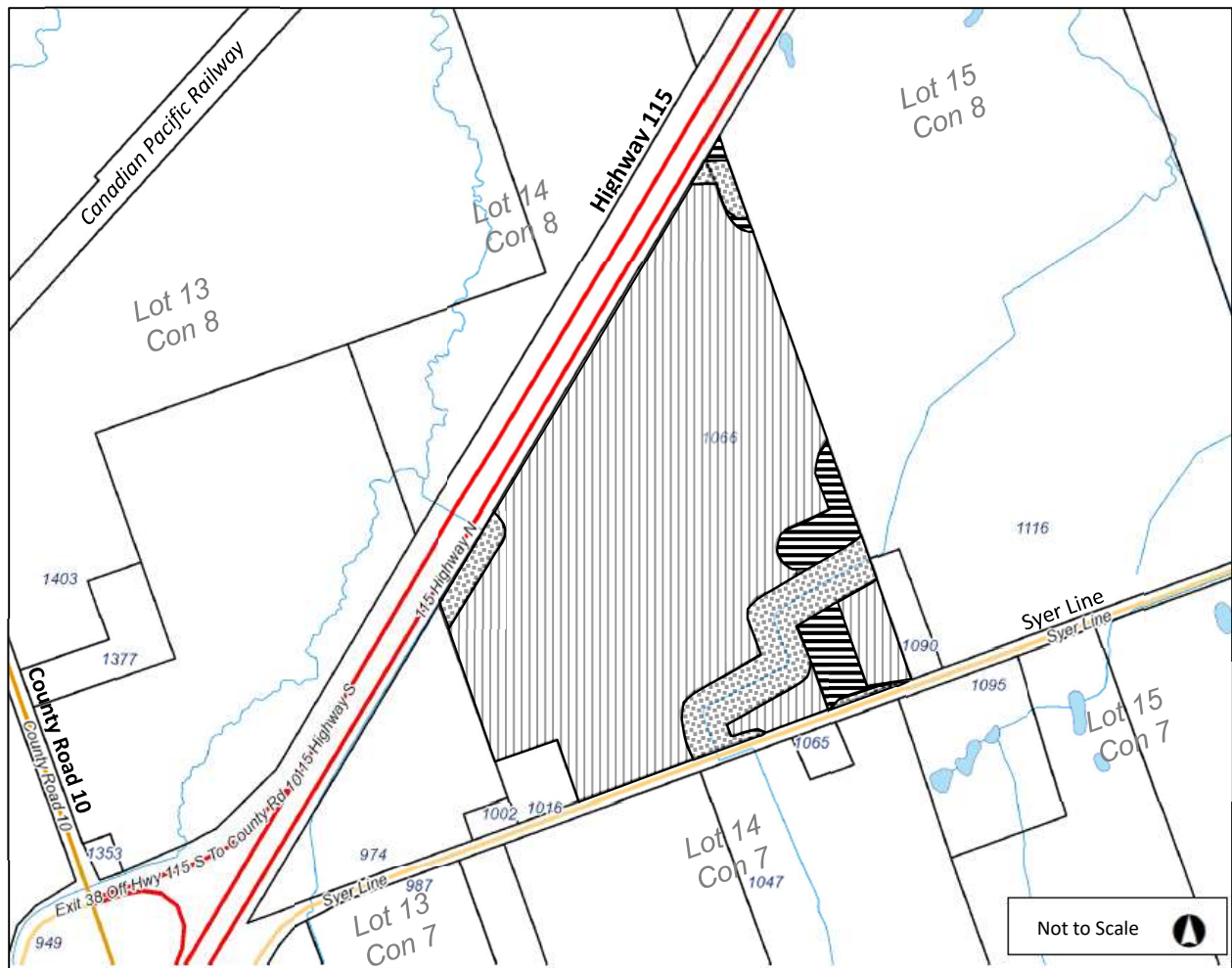
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




Scott McFadden
Mayor



Elana Arthurs
Clerk



-  Rezone from the 'Agricultural (A) Zone' to the 'Rural Employment (M2) Zone'
-  Lands to remain zoned the 'Natural Linkage (NL) Zone'
-  Rezone from the 'Agricultural (A) Zone' to the 'Natural Linkage (NL) Zone'