

To:	Warden Hicks and Members of Grey County Council
Committee Date:	September 12, 2019
Subject / Report No:	PDR-CW-38-19
Title:	Potential Appeal of B25.2019, Grey Highlands
Prepared by:	Randy Scherzer and Pat Hoy
Reviewed by:	Kim Wingrove
Lower Tier(s) Affected:	Municipality of Grey Highlands
Status:	Report and Motion withdrawn per Resolution CW181-19 September 12, 2019;

Recommendation

1. **That Report PDR-CW-38-19 be received which provides an overview of Consent Application B25.2019 in the Municipality of Grey Highlands; and**
2. **That staff be directed to continue the appeal of Consent Application B25.2019 as the conditional approval did not include the road widening as requested by County Transportation Services and therefore does not conform to the County Official Plan or the County's Sale and Acquisition of Land Policy and Procedure; and**
3. **That staff be directed to work with the Applicant and the Municipality to explore options for settling this matter without having to proceed to a Local Planning Appeals Tribunal Hearing if possible; and**
4. **That staff be authorized to proceed prior to County Council approval as per Section 25.6(b) of Procedural By-law 5003-18.**

Executive Summary

Consent Application B25.2019 in the Municipality of Grey Highlands was given provisional consent on August 13, 2019. County Transportation Services requested that road widening be provided in accordance with the County Official Plan as well as in accordance with the County's Sale and Acquisition of Land Policy and Procedure. A

condition was not included to grant the road widening to the County. Additional land adjacent to the County Road is required in order to accommodate any future road works and utility needs. Utilities requiring space within the right of way continues to expand. There are numerous requests for installation for trunk mains, fibre optic cable, hydro installation and specialty power projects such as solar farms. A 'placeholder' appeal was submitted in accordance with the County's Appeal Protocol in order for this matter to be discussed with Council. It is recommended that this Consent Application be appealed to the Local Planning Appeal Tribunal and that staff be directed to work with the Applicant and the Municipality to potentially explore options for settling this matter without having to proceed to an LPAT hearing.

Background and Discussion

Consent Application B25.2019 in the Municipality of Grey Highlands proposes to sever a rural residential lot with a lot area of approximately one hectare (outlined in red on Map 1). The retained parcel will be approximately 39 hectares (outlined in blue on Map 1). The subject lands are located at 525736 Grey Road 30 and are described as Lot 18, Concession 14, geographic Township of Artemesia, Municipality of Grey Highlands. The subject lands front onto Grey Road 30 (see Map 1 below).

Map 1: Subject Lands



County staff submitted comments on the Consent Application on August 2, 2019. A link to the County staff comments can be found in the Appendices and Attachments section of this Report along with a copy of the Engineering Field Report. County staff identified no concerns with the proposed application subject to 5.2 metres (17 feet) of road widening being provided on both the severed and retained parcel as noted in the Engineering Field Report. The required road widening is in accordance with the County Official Plan and the County’s Sale and Acquisition of Land Procedure – G-GEN-003-002.

Grey Highlands Committee of Adjustment conditionally approved Consent Application B25.2019 on August 13, 2019. The last date for appeal for Consent Application was September 4, 2019. The decision for B25.2019 did not include the road widening as requested by the County. Given that the last date for appeal was prior to the next County Committee of the Whole meeting, staff submitted a ‘placeholder’ appeal to the Municipality of Grey Highlands in accordance with the County’s appeal protocol. This is to allow County Council to determine whether they want to proceed with the appeal. If Council decides not to proceed, the ‘placeholder’ appeal would be withdrawn and therefore Grey Highlands would not submit the appeal package to the Local Planning

Appeals Tribunal. If Council decides to proceed with the appeal, Grey Highlands would submit the appeal package to the Local Planning Appeals Tribunal.

Section 8.3.2(3) of the County Official Plan indicates that the required road allowance of a County road will be determined by Council but will generally follow the minimum right-of-way widths based on the functional classification of the road. For County Arterial, County Collector and County Local Roads, the minimum right-of-way width is generally 30 metres. The Official Plan policies note that County Transportation Services may investigate the option of increasing or reducing this width but at this time the required right-of-way width for all County roads is generally 30 metres. Grey Road 30 is identified as a County Local Road on Appendix D of the County Official Plan.

The County's Sale and Acquisition of Land Policy and Procedure indicates that for severances of properties on County roads, a road widening of 5.2 metres (17 feet) is to be conveyed in support of the County's long-term goal of acquiring 30.5 metres (100 feet) right of way widths throughout its road system. For severances, road widening will be conveyed to the County on both the severed and retained parcels which will be added as a condition of consent. For properties located within settlement areas, the required road widening will be determined by the Director of Transportation Services or his-her designate. It should be noted that land has already been acquired in the past on the north side and therefore this additional road widening on the south side will provide the necessary 30.5 metres of road width.

The reason for obtaining the road widening is to accommodate any future road works and utility needs. Utilities requiring space within the right of way continues to expand. There are numerous requests for installation for trunk mains, fibre optic cable, hydro installation and specialty power projects such as solar farms. As Grey is supportive of this service for the public and in most cases, obligated to provide space for these utilities, it is in the County's best interest to obtain more land at a minimum cost. A wider right of way allows the utilities to be moved farther from the road which saves future relocation costs. For road widening obtained through severance, there is no compensation provided which was determined by Council as the preferred option in 2014. If the property has not been acquired through planning applications, the County must then purchase or expropriate the property. It is much more cost-effective and more efficient to acquire the property as part of the consent application process versus having to acquire it later.

The additional costs to the property owner to transfer the road widening to the County are usually quite minimal as a surveyor is already required to survey the lands to be severed and therefore the surveyor can survey the road widening at the same time. Land transfer and legal costs are also quite minimal to transfer the lands to the County and County staff assistances with the land transfer in order to make the process as easy and cost-effective as possible. County staff believe that the additional cost to the

landowner will typically be less than \$500. If the County were to acquire the land outside of the severance process it would be considerably more than this and this would end up being a cost to taxpayers versus a cost associated with development.

The County reached out to some other Counties on whether compensation was provided to acquire road widening through a severance process and based on the responses to date no one has indicated that compensation is provided when acquiring land as part of planning application process.

County staff recommend that the Consent Application be appealed as it does not conform to the County Official Plan and it also does not conform to the County's Sale and Acquisition of Land Policy and Procedure. It is recommended that staff be directed to explore options with the Applicant and the Municipality to try and resolve this matter to avoid an LPAT hearing.

Legal and Legislated Requirements

Should Council decide to proceed with the appeal, the appeal would be processed by the Municipality in accordance with the *Planning Act*. County staff hope to resolve this matter with Grey Highlands and the Applicant in order to avoid a Local Planning Appeals Tribunal (LPAT) Hearing, however if a resolution cannot be obtained then this matter would proceed to an LPAT Hearing.

Financial and Resource Implications

Should this proceed to an LPAT Hearing, there would be staff resources and legal costs in order to defend the County's appeal.

Relevant Consultation

- Internal (County Planning, County Legal Services, County Transportation Services, CAO)
- External (Municipality of Grey Highlands)

Appendices and Attachments

[County Staff Comments and Engineering Field Report - B25.2019](#)

[County Official Plan](#)

[County's Acquisition of Land Procedure](#)

Report PDR-PCD-14-07 - County's Appeal Protocol