

To:	Warden Hicks and Members of Grey County Council
Committee Date:	October 24, 2019
Subject / Report No:	TR-CW-22-19
Title:	Road Widening Acquisition Grey Road 40
Prepared by:	Pat Hoy, Director of Transportation Services
Reviewed by:	Kim Wingrove, CAO
Lower Tier(s) Affected:	Township of Chatsworth
Status:	Recommendation adopted by Committee as presented per Resolution CW207-19;

Recommendation

1. **That Report TR-CW-22-19 regarding the acquisition of road widening be received and that the property identified as Part of Lot 10 Concession 7 Sullivan shown as Part 6 on the Draft Reference Plan of Survey attached to Report TR-CW-22-19; Geographic Township of Sullivan, Township of Chatsworth, County of Grey be acquired by The Corporation of the County of Grey for road widening purposes; and**
2. **That staff be directed to proceed with the road acquisition prior to County Council approval as per Section 25.6 b) of Procedural By-law 5003-18 in order to allow for a timely closure of the real estate transaction pending on the abutting land.**

Executive Summary

The Township of Chatsworth granted severance application B03-2019 for the purpose of a lot addition. The existing lot to be added to was created with planning act consent in 1972.

Lots created with planning act consent cannot be re-registered to merge with adjacent land unless they are physically changed or altered.

The acquisition of a road widening parcel by the County off the front of the lot that was created in 1972 will alter the parcel and allow the two parcels to merge on title in accordance with the condition three of Severance B03-2019.

Background and Discussion

The Township of Chatsworth granted severance application B03-2019 for the purpose of a lot addition. The property to be added to was created with planning act consent pursuant to a decision granted by the Grey County Planning Approval in 1972 under its file number B243-72.

Under subsection 50 (12) of the Planning Act, R.S.O. 1990, c. P. 13 as amended, commonly referred to as the “Once a Severance, Always a Severance Rule”, the original severed parcel could potentially be sold, transferred, or mortgaged separate from the lot addition parcel. This would result in the unauthorized creation of three separate lots.

Given that the creation of the proposed lot is dependent on it merging with the existing lot created with Planning Act Consent in 1972 it is necessary to alter the dimensions of the existing lot to ensure the parcels can legally merge on title.

The current landowners requested that the County accept a transfer of a one-foot triangle off the originally severed parcel to alter the dimensions of the land and break the “Once a Severance, Always a Severance Rule”.

The draft survey already outlined the full road widening along the frontage of the previously severed lot and staff requested that the landowner sell the full road widening parcel to the County for the consideration price of \$1,000.00 in accordance with the Grey County Land Acquisition Procedure G-GEN-003-002.

The acquisition of a 17 foot road widening parcel by the County off the front of the lot that was created in 1972 will alter the dimensions of this parcel and effectively break the “Once a Severance, Always a Severance Rule” ensuring that the original lot created in 1972 cannot be sold, transferred, or mortgaged separate from the lot addition parcel.

The County is acquiring Parts 4, 5 and 7 on the Draft Reference Plan (attached) as a condition of Severance B03-19. It is recommended that the County acquire Part 6 on the Draft Reference Plan and join it to the abutting county road network. The acquisition of these parcels will result in a 30.5 metre (100 foot) right-of-way width in this area of Grey Road 40, which supports the County’s long-term goal in accordance with the Transportation Master Plan.

The retained portion of the severance is scheduled to be transferred to a third party who wishes to acquire the land as soon as possible. To allow for a timely closure of the real estate transaction pending on these lands, we are requesting that the road widening transfer be completed prior to County Council approval.

Legal and Legislated Requirements

Section 50 (12) of the *Planning Act* states that “where a parcel of land is conveyed by way of a deed or transfer with a consent given under section 53, subsection (3) and (5) of this section do not apply to subsequent, or other transactions involving, the identical parcel of land unless the council or the Minister, as the case may be, in giving consent, stipulates either that subsection (3) or subsection (5) shall apply to any such subsequent conveyance or transaction.”

Financial and Resource Implications

The total compensation to the landowner is \$1,000.00 in accordance with the Grey County Land Acquisition Procedure G-GEN-003-002.

The funding will come from the Transportation Services Land Acquisition budget.

Relevant Consultation

- Internal
 - Legal Services Department
 - Clerks Department
- External
 - John Middlebro', Lawyer
 - Property Owner

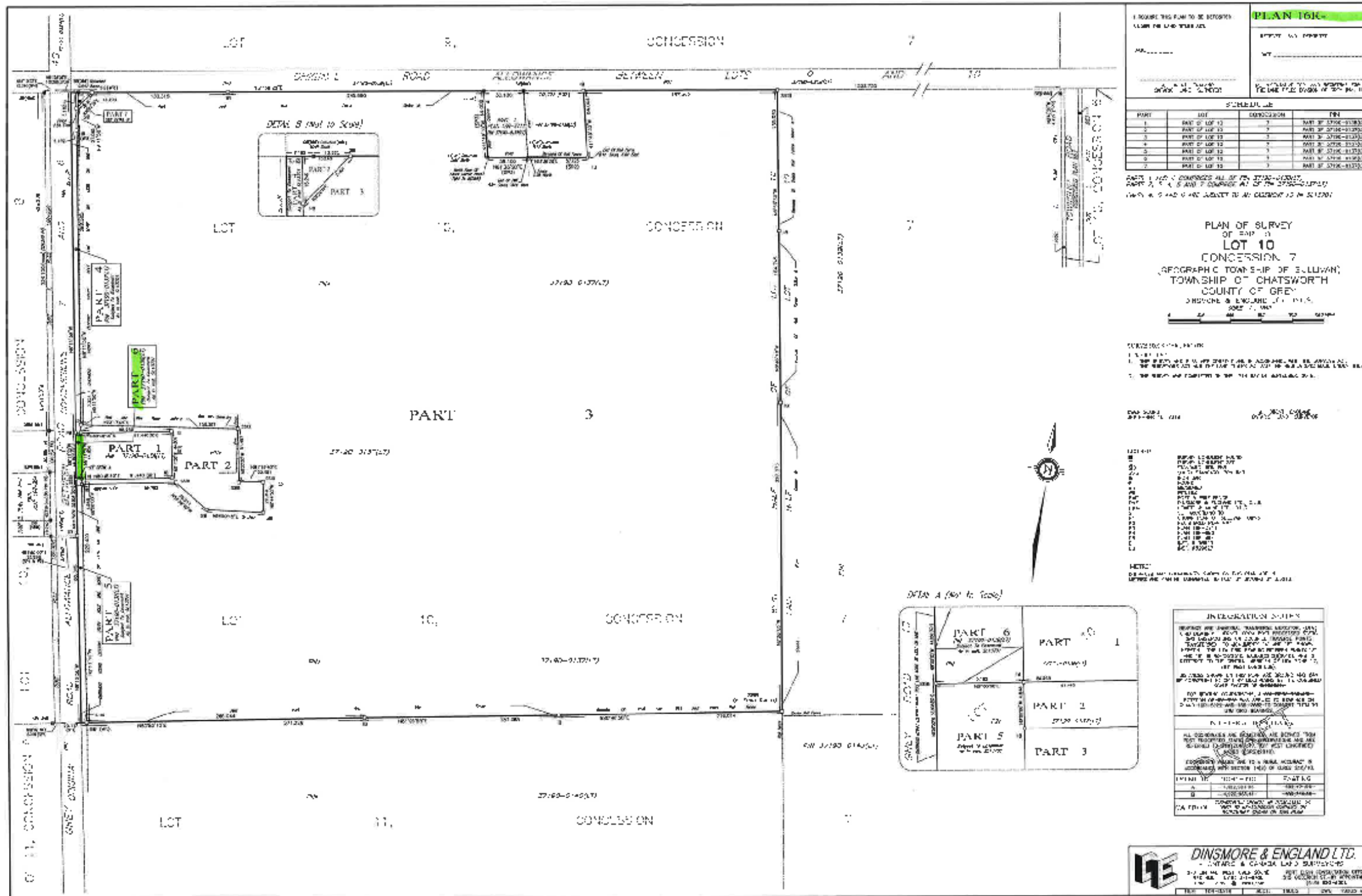
Appendices and Attachments

Location Map
Draft Reference Plan 16R-XX
Grey Road 40 Road Widening Acquisition Agreement

Location Map



Draft Reference Plan



Grey Road 40 Road Widening Acquisition Agreement

This Agreement

made in duplicate this _____ day of _____, 20____
between:

The Corporation of the County of Grey

(herein called the "County")

- and-

Robert Douglas Keeling

(herein called the "Owner")

WHEREAS the Owner owns a parcel of land situated in the Township of Chatsworth in the County of Grey; adjacent to County Road 40.

AND WHEREAS the County wants to purchase and the Owner is agreeable to sell part of the land for road widening purposes.

The Owner and the County agree that in consideration of the rounded sum of **\$1,000.00** (which compensation is in accordance with Schedule 'A' of Grey County's Acquisition of Land Procedure No. G-GEN-003-002 which states that compensation for land less than 0.2 acres in size is \$1,000.00) payable upon receipt of a signed Transfer for the Purchased Parcel, the parties, intending to be legally bound, agree as follows:

The Owner agrees to sell to the County, a parcel of land with a total area of 0.057 acres and being legally described as Part of Lot 10, Concession 7, Township of Chatsworth (in the former geographic Township of Sullivan), in the County of Grey depicted as Part 6 on Reference Plan attached hereto as Schedule "A". (the "Purchased Parcel").

Additional Details: (None)

The Owner agrees to provide the County with a valid Transfer/Deed of Land conveying unencumbered title to, and releasing all claims in respect of, the Purchased Parcel and the additional lands. The Transfer/Deed of Land shall be prepared at the expense of the County by its lawyers.

The Owner shall obtain release of any existing mortgage or other encumbrance on the purchased parcel. The Owner represents that spousal consent is not necessary to this transaction under the provisions of the Family Law Act (Ontario), unless the Owner's spouse has executed the consent below. The Owner represents that the Owner is not a non-resident of Canada within the meaning of the *Income Tax Act*.

The obligation of the County to complete the transaction contemplated by this agreement shall be conditional upon County Council passing a motion approving the acquisition of the Purchased Parcel.

The transaction shall be completed on or before a date specified by the County by notice sent to the Owner not less than 30 days prior to the specified completion date, but in no case shall completion occur later than the 2nd day of July, 2020 (being the date required for completion of a condition in a severance decision obtained by the Owner) and if not completed before the 2nd day of July, 2020, this Agreement shall be null and void.

If this transaction is subject to Harmonized Sales Tax such tax shall be included in the purchase price.

The heirs, executors, administrators, successors in title and assigns of the Owner are bound by the terms of this agreement.

In witness, the parties have signed, sealed and delivered this agreement.

The Corporation of the County of Grey

(seal)	_____
	Selwyn Hicks, Warden

	Heather Morrison, Clerk
_____	_____ (seal)
Owner, Robert Douglas Keeling	Witness

The undersigned Spouse of the Owner consents to the disposition agreed to herein pursuant to the provisions of the Family Law Act (Ontario), and hereby agree with the County that he or she will execute all necessary documents to complete the sale.

_____	_____ (seal)
Spouse of Owner (if not property owner)	Witness