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STAFF REPORT: Planning & Building Services Department



REPORT TO: Council
MEETING DATE: July 15, 2013
REPORT NO.: PL.13.88
SUBJECT: Consideration of Sale of Beaver Street South Road Allowance, Louisa Street West to Victoria Street South
PREPARED BY: D. Finbow, Director, Planning & Building Services

A. Recommendations

1. **THAT** Council receive Staff Report PL.13.88 respecting “Beaver Street South Road Allowance – Louisa Street West to Victoria Street South”.
2. **AND THAT** Council authorize Sobeys Developments Inc. (Sobeys) to make application, as the Town’s agent related to planning application(s), related to the Beaver Street South Road Allowance, Louisa Street West to Victoria Street South, with such authorization being subject to Sobeys entering into a Memorandum of Understanding (MOU) with the Town in a form satisfactory to the Town.
3. **AND THAT** Council hereby direct that the MOU address, amongst other things, the following:
 - a. That Sobeys be responsible for all costs associated with surveying, appraising the lands, including peer review, planning applications and legal costs;
 - b. That the MOU not operate, or have the effect of operating in any way, to fetter Council’s exercise of any of Council’s discretionary powers, duties or authorities with respect to the planning applications; and,
 - c. That the MOU reflect that Sobeys will not obtain any advantageous planning or other considerations or treatment by virtue of it having entered into the MOU, or by virtue of the existence of this MOU.
4. **AND THAT** Council direct Staff to initiate public notice procedures as part of the Town’s consideration of the Sobeys planning applications related to the consideration of:
 - a. stopping-up and closing a portion of the Beaver Street South Road Allowance;
 - b. declaring the lands as surplus to the Town’s needs; and,
 - c. offering the subject lands for sale by way of alternate method to Sobeys.
5. **AND THAT** Council determine the appropriateness/desirability of the stopping up and closing and related sale of a portion of the Beaver Street South Road Allowance following the public consultation process noted above.

B. Background

PURPOSE:

To provide Council with additional information related to the process associated with Council's consideration of declaring a portion of the Beaver Street South road allowance surplus to the Town's needs and, if so determined to be surplus, the related stopping-up and closing process.

COUNCIL MEETING OF MAY 27, 2013:

Council at its meeting of May 27, 2013 considered Staff Report PL.13.74 (Appendix 1) respecting Beaver Street South and adopted the following resolution:

THAT Council defers consideration of Staff Report PL.13.68 "Beaver Street South Road Allowance between Victoria Street South and Louisa Street West, Thornbury", and

THAT staff report back to Council considering the closing and sale of Beaver Street.

Attached for Council's information is an extract from the minutes of Council's meeting of May 27, 2013 respecting the subject matter (Appendix 2).

It is Town staff's understanding that Council was desirous of deferring the matter so as to receive additional information related to the proposed process associated with Council's consideration of declaring the subject road allowance surplus to the Town's needs and, if so determined to be surplus, the related stopping-up and closing process.

TOWN POLICY POL.COR.07.02 – SALE OF TOWN LAND:

As noted in Staff Report PL.13.68, Town Policy POL.COR.07.02 sets out the Town's process respecting the sale and other disposition of land.

The policy does not identify that a public meeting be held prior to Council considering whether land is surplus to the Town's needs. Further, the policy does not anticipate a "public meeting" prior to Council's consideration of the sale of land, the policy requires that the sale be advertised. It is noted that Council does consider written comments from the public with respect to the proposed sale of land, as anticipated by the policy, and it has been Council's practice to hear directly from the public at the Council Meeting wherein they consider the sale of land. In this regard, Town staff recommends that Council consider a revision to the policy so as to reflect earlier notice to the public (prior to declaring land surplus) and to reflect Council's practices so as specifically require a public meeting prior to the consideration of the sale of land.

MUNICIPAL ACT, 2001 – HIGHWAY CLOSING PROCEDURES:

The *Municipal Act* contains the following provisions related to highway closing procedures:

Highway closing procedures

34. (1) A by-law permanently closing a highway does not take effect until a certified copy of the by-law is registered in the proper land registry office. 2006, c. 32, Sched. A, s. 18.

Consent

(2) A by-law permanently closing a highway shall not be passed without the consent of the Government of Canada if the highway,

- (a) abuts on land, including land covered by water, owned by the Crown in right of Canada; or
- (b) leads to or abuts on a bridge, wharf, dock, quay or other work owned by the Crown in right of Canada. 2006, c. 32, Sched. A, s. 18.

It is noted that the *Municipal Act* does not specifically provide and/or require notice procedures however the *Environmental Assessment Act* may depending on the type/extent/impact of the closure (see below).

In summary, a by-law to stop up and close a portion of the Beaver Street road allowance would not take effect until the by-law has been registered.

ENVIRONMENTAL ASSESSMENT ACT:

As noted in Staff Report PL.13.68, the closing of a highway is subject to the *Environmental Assessment Act* (EA Act). The Municipal Class Environmental Assessment is an approved planning document that proponents must follow in order to meet the EA Act. It would appear that the subject closing is a Schedule A Project and that the EA Act requirements could be fulfilled by the planning process associated with Sobey's planning applications.

GREY CONDOMINIUM CORPORATION NO. 10 & OTHER PUBLIC COMMENTS:

The Town is in receipt of correspondence from various condominium corporations and from area residents expressing concern with respect to the stopping-up and closing of the Beaver Street South road allowance, area transportation concerns and the merits of Sobey's planning applications.

With respect to Grey Condominium Corporation No. 10, Council heard from the President, Mr. McPhail, at their meeting of May 27, 2013. Subsequent to that meeting, the Town received correspondence from GCC 10 on July 1, 2013 (Appendix 3) that concludes "the Applridge owners do not support the closure and sale of Beaver St. and the owners do not support the development of the triangle of land, currently zoned for Open Space, bounded by Beaver St., Victoria St. and Louisa St."

PROPOSED PROCESS:

As there is general Staff agreement that the subject lands are surplus to the Town's infrastructure needs, and with all due respect to the concerns expressed by the public to-date, Town Staff recommend that Council proceed with a more formal public consultation process with respect to the "surplus declaration" and that same occur in conjunction with Sobeys planning applications so as to gather further input from the community. Following public input, Council could then determine whether the subject land is surplus to the needs of the Town and determine if the sale of the subject land is in the best interests of the Town.

If Council determines to proceed in this direction, Staff recommends that the process be as follows:

1. Council Authorizes Sobeys to Act as the Town's Agent

Council authorize Sobeys Developments Inc. (Sobeys) to make application as the Town's agent related to planning application(s) related to the Beaver Street South Road Allowance, Louisa Street West to Victoria Street South, with such authorization being subject to Sobeys entering into a Memorandum of Understanding (MOU) with the Town with said MOU being in a form satisfactory to the Town.

2. MOU RESPECTING THE SALE OF THE ROAD ALLOWANCE

The MOU should, as a minimum, address the following matters:

- a. That Sobeys be responsible for all costs associated with surveying, appraising the lands, including peer review, planning applications and legal costs;
- b. That the MOU not operate, or have the effect of operating in any way, to fetter Council's exercise of any of the Council's discretionary powers duties or authorities with respect to the planning applications; and,
- c. That the MOU reflect that Sobeys will not obtain any advantageous planning or other considerations or treatment by virtue of it having entered into the MOU, or by virtue of the existence of this MOU.

3. Public Consultation Process

That as part of the public notice and consideration of Sobeys planning applications that same include consideration related to:

- a. stopping-up and closing a portion of the Beaver Street South Road Allowance;
- b. declaring the lands as surplus to the Town's needs; and,
- c. offering the subject lands for sale by way of alternate method to Sobeys.

4. Council Determination

That Council determine the appropriateness/desirability of the conveyance of a portion of the Beaver Street South Road Allowance following the public consultation process noted above (as well as the merits of Sobeys planning applications).

SUMMARY:

It is Town Staff's belief that the proposed process would allow for a more consultative and comprehensive public process as it relates to not only the merits of the consideration of the "surplus declaration" but also Sobeys planning applications.

C. The Blue Mountains' Strategic Plan

Providing a strong, well managed municipal government.

D. Environmental Impacts

N/A

E. Financial Impact

TBD

F. In Consultation With

Senior Management Team
J. Metras, Q.C.

G. Attached

Appendix 1 Staff Report PL.13.68
Appendix 2 Extract from the Minutes of the Council Meeting of May 27, 2013
Appendix 3 Correspondence from GCC 10 received on July 2, 2013

Respectfully submitted,

D. Finbow
Director, Planning & Building Services

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STAFF REPORT: Planning & Building Services Department

Appendix

1



REPORT TO: Council
MEETING DATE: May 27, 2013
REPORT NO.: PL.13.68
SUBJECT: Beaver Street South Road Allowance, between Victoria Street South and Louisa Street West, Thornbury
PREPARED BY: D. Finbow, Director, Planning & Building Services

A. Recommendations

1. **THAT** Council receive Staff Report PL.13.68 with respect to “Beaver Street South Road Allowance between Victoria Street South and Louisa Street West, Thornbury”;
2. **THAT** Council determine that the Beaver Street South Road Allowance between Victoria Street South and Louisa Street West (the “subject lands”) is surplus to the needs of the Town;
3. **THAT** Town staff be directed to advertise the proposed sale of the subject lands by way of alternative method, being a direct sale to the adjacent landowner, Sobeys, in accordance with Town policy; and,
4. **THAT** Council direct that a Municipal Class Environmental Assessment (MCEA) be completed for the proposed alterations to the Beaver Street South/Louisa Street West/Victoria Street South intersection as part of the planning approval process related to the proposed development of the lands bounded by Arthur Street West, Victoria Street South, Louisa Street West and Lansdowne Street South.

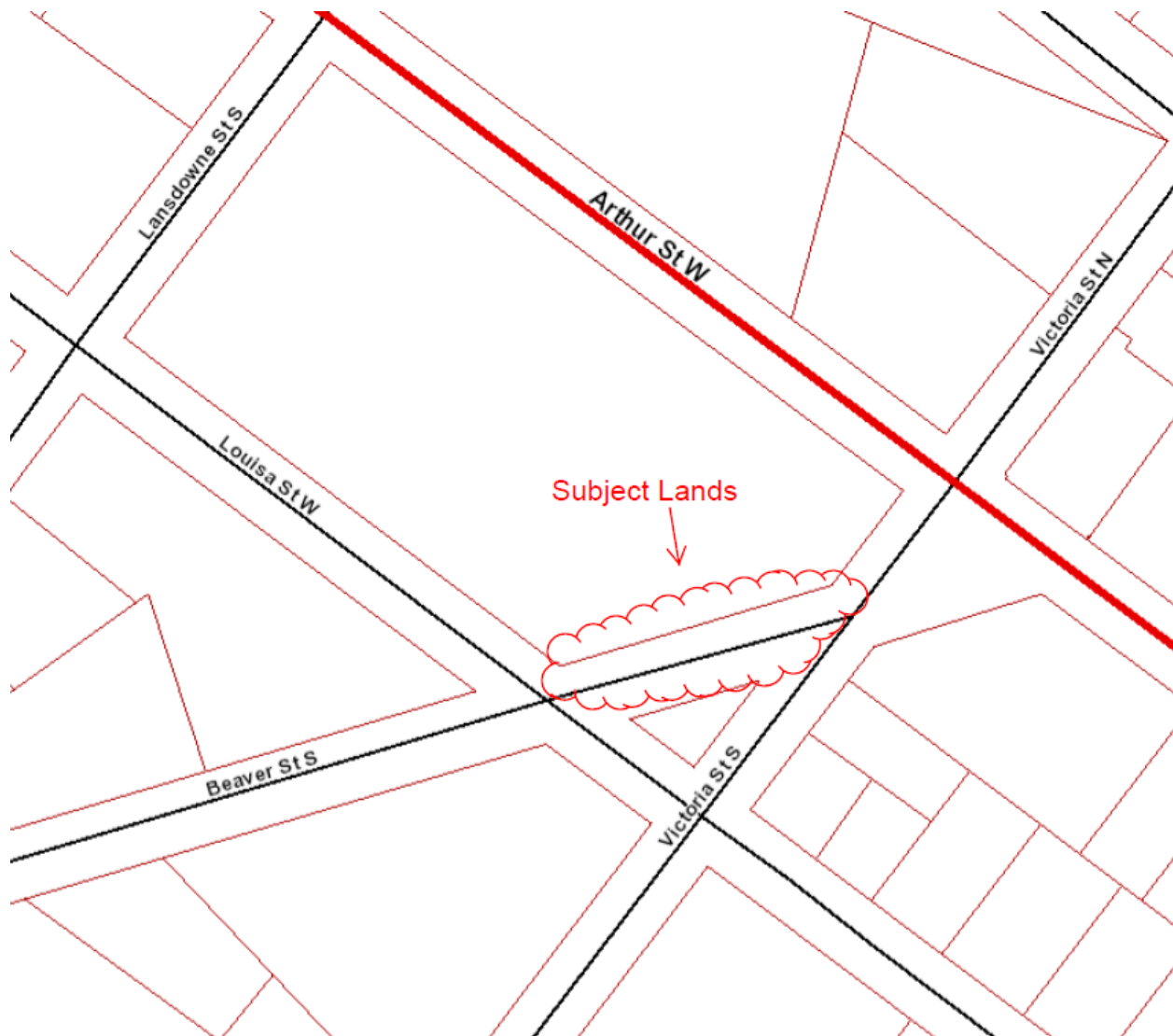
B. Background

Purpose:

The purpose of this Report is to seek Council’s direction with respect to declaring the Beaver Street South Road Allowance between Victoria Street South and Louisa Street West as being surplus to the Town’s needs and to proceed with the sale of same in accordance with Town policy.

Subject Lands:

The subject lands are the Beaver Street South Road Allowance, between Victoria Street South and Louisa Street West, as shown on the sketch below.



Town Policy:

Town Policy POL.COR.07.02 respecting Sale and Other Disposition of Land indicates the following:

1. Subject to any other provisions contained in the *Municipal Act, 2001*, prior to the sale of land Council shall:
 - a) at a regularly scheduled Council meeting deem that any land to be sold or conveyed is surplus to the needs of the Corporation;

- b) obtain at least one appraisal of the fair market value of the land to be sold or conveyed and this appraisal may include consideration of a public benefit in the case of any land transfer or exchange;
 - c) give notice to the public of the proposed sale of land by publication of notice of the proposed sale for two successive weeks in a local newspaper having general circulation in the area and by posting on the Town website and by e-mail message to any person who requests provision of Town notices.
2. Council may, at their sole discretion and acting in good faith, upon compliance with clause 1. of this Policy, advertise to request sealed tenders or bids for the sale of land or to engage a real estate firm or broker for the sale of land or utilize an alternative method of sale or disposal of land to be determined by Council.
 3. Council may, at their sole discretion, add or delete any costs incurred by the municipality with regard to the sale of land to or from the sale price of the land.

As Council will note, should Council determine that the subject lands are surplus to the Town's needs, the Town will require an appraisal of the fair market value of the subject lands. In this regard, the Town will require that the proponent obtain the appraisal and subsequently the Town will have same peer reviewed.

Current Use of the Subject Lands & Presence of Infrastructure:

The current use of the subject lands is that of a municipal road connecting lands to the south to Victoria Street South and is a rural cross section (open ditches). Water and sanitary mains/services are not located within the road section. The presence of other services, such as gas, bell, hydro, etc., has not been explored and the relocation of these services would be the responsibility of the future owner of the land.



Town staff note that the subject lands are not seen to be necessary for any future infrastructure works, including trails, roads, sewer or water.

Proposed Sale of Land by Alternate Method:

The adjacent landowner, Sobeys, approached the Town with respect to the acquisition of the subject lands. The purpose of this acquisition is to allow for better programming of their development parcel (being the lands bounded by Arthur Street West, Victoria Street South, Louisa Street West and Lansdowne Street South). It is noted that Sobeys has also made arrangements for the acquisition of the triangular parcel bounded by Victoria Street South, Beaver Street South and Louisa Street West so as to effectively “square-off” their development site.

The subject lands are located in a Highway Commercial (C2) Zone and Open Space (OS) Zone while the triangular parcel of land is located in the Open Space (OS) Zone. Both the subject lands and the triangular parcel have a land use designation of Commercial under the Town’s Official Plan.

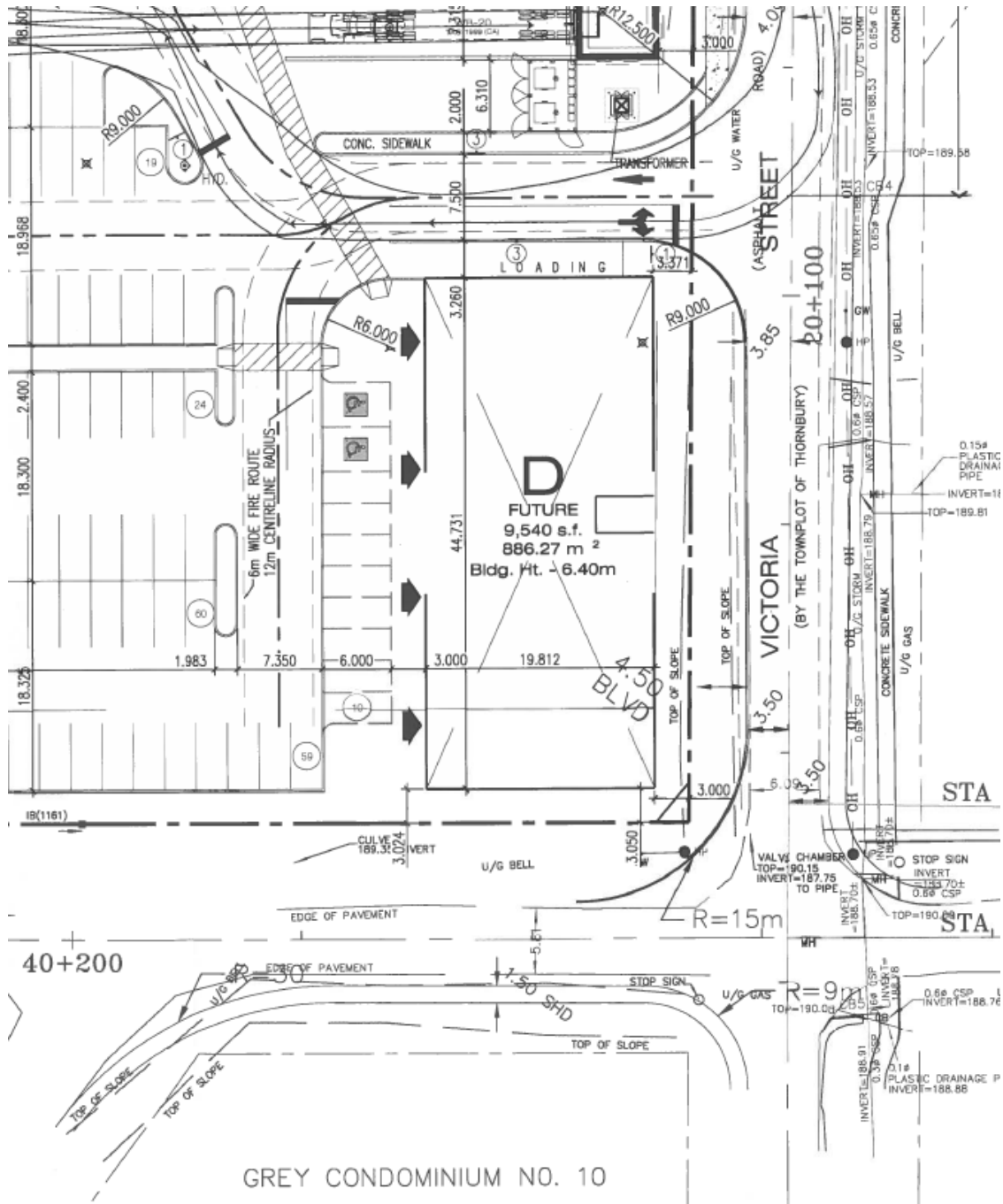
Town POL.COR.07.02 authorizes an alternative method of sale or disposal of land as determined by Council. In this regard, Town staff recommends that should Council determine the subject lands are surplus to the Town’s needs that the Town precede with the sale of land to the adjacent landowner, Sobeys, by way of an alternative method (direct sale, subject to arriving at the fair market value of the land).

Transportation:

The subject lands provide uninterrupted connectivity from Beaver Street South, south of Louisa Street West, through to Victoria Street South. To ensure appropriate traffic, cyclist and pedestrian flow, it is appropriate that alterations to Louisa Street West from Beaver Street South to Victoria Street South be considered by way of a Municipal Class Environmental Assessment (MCEA). This consideration can be addressed by way of the planning process for the proposed development of the lands bounded by Arthur Street West, Victoria Street South, Louisa Street West and Lansdowne Street South.

Adjacent Development Proposal:

As noted previously, the Planning Services Division has received applications for a Zoning By-law Amendment and Site Plan Approval related to the lands bounded by Arthur Street West, Victoria Street South, Louisa Street West and Lansdowne Street South. The drawings in support of these applications depict a proposed building and vehicular access to the development parcel. The merits and appropriateness of these matters will be further reviewed during the processing and public participation processes associated with the proposed Zoning By-law Amendment.



Municipal Class Environmental Assessment Process:

Should Council determine to proceed with deeming the subject lands surplus and determine to sell the lands by alternative method, alterations to Beaver Street South may be required so as to ensure continuous traffic, cyclist and pedestrian movement southerly towards the intersection of Victoria Street South and Louisa Street West. The Director, Engineering & Public Works has advised that this should be explored by way of a Municipal Class Environmental Assessment Process.

What is the Municipal Class Environmental Assessment Process?

The Municipal Class Environmental Assessment (Class EA) is an approved planning document that describes the process that proponents must follow in order to meet the requirements of the *Environmental Assessment Act* (EA Act).

This process allows for the evaluation of the potential environmental effects of the proposed alternatives to a project and alternative methods of carrying out a project and includes the mandatory requirements for public input, while expediting the environmental assessment of smaller recurring projects.

Class EA's are a method of dealing with projects, that commonly re-occur, are similar in nature and present a limited scale of predictable and ranges of environmental effects.

Common Class EA projects include:

- Operational and maintenance improvements for roads, watermains, sewers and related infrastructure.
- Construction of new roads, watermains, sewers and related infrastructure.
- Construction of stormwater management and related erosion and sediment control, flood control and water quality control facilities.

Project Schedules

Projects are categorized according to their environmental significance and the effects on the surrounding environment.

Schedule A	<p>Schedule A: Projects are limited in scale, have minimal adverse environmental effects and include a number of municipal maintenance and operational activities.</p> <p>These projects are pre-approved and may proceed to implementation without following the full Class EA planning process.</p> <p>Schedule A projects generally include normal or emergency operational and maintenance activities.</p> <p>Schedule A +: The purpose of Schedule A + is to ensure some type of public notification for certain projects that are pre-approved under the Municipal Class EA, it is appropriate to inform the public of municipal</p>
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	<p>infrastructure project(s) being constructed or implemented in their area. There, however, would be no ability for the public to request a Part 2 Order. If the public has any comments, they should be directed to the municipal council where they would be more appropriately addressed.</p>
Schedule B	<p>These projects have the potential for some adverse environmental effects. The proponent is required to undertake a screening process, involving mandatory contact with directly affected public and with relevant government agencies to ensure that they are aware of the project and that their concerns are addressed.</p> <p>If there are no outstanding concerns, then the proponent may proceed to implementation. If there are no outstanding concerns, then the proponent may proceed to implementation.</p> <p>Schedule B projects generally include improvements and minor expansions to existing facilities. However, if the screening process raises a concern which cannot be resolved, a Part II Order may be invoked; alternatively, the proponent may elect voluntarily to plan the project as a Schedule C undertaking.</p>
Schedule C	<p>Such projects have the potential for significant environmental effects and must proceed under the full planning and documentation procedures specified in this Class EA document.</p> <p>Schedule C projects require that an Environmental Study Report (ESR) be prepared and filed for review by the public and review agencies.</p> <p>Schedule C projects generally include the construction of new facilities and major expansions to existing facilities. If concerns are raised that cannot be resolved, a Part II Order may be invoked.</p>

Planning Process

The planning process provides an alternative for municipalities conducting road, water and wastewater projects. The five key principals of planning as outlined in the EA Act are:

1. Consultation with affected parties early in and throughout the process, such that the planning process is a co-operative venture.
2. Consideration of a reasonable range of alternatives, both the functionally different alternatives to the project (known as alternative solutions) and the alternative methods of implementing the preferred solution.
3. Identification and consideration of the affects of each alternative on all aspects of the environment.
4. Systematic evaluation of alternatives in terms of their advantages and disadvantages, to determine their net environmental effects.
5. Provision of clear and complete documentation of the planning process followed, to allow 'traceability' of decision-making with respect to the project.

Phases of the Process

Phase 1	Problem or Opportunity: Identify the problem or opportunity.
Phase 2	Alternative Solutions: Identify alternative solutions to the problem, by taking into consideration the existing environment, and establish the preferred solution taking into account public and agency review and input. At this point determine the appropriate Schedule for the undertaking, and/or identify the approval requirements; proceed through the following Phases for Schedule C projects.
Phase 3	Alternative Design Concepts for Preferred Solution: Examine alternative methods of implementing the preferred solution, based upon the existing environment, public and government agency input, anticipated environmental effects and methods of minimizing negative effects and maximizing positive effects.
Phase 4	Environmental Study Report: Document, in an Environmental Study Report a summary of the rationale, and planning, design and consultation process of the project as established through the above Phases and make such documentation available for scrutiny by review agencies and the public.
Phase 5	Implementation: Complete contract drawings and documents, and proceed to construction and operation; monitor construction for adherence to environmental provisions and commitments. Where special conditions dictate, also monitor the operation of the complete facilities.

Summary:

Town staff are of the opinion that the subject lands could be deemed by Council as being surplus to the needs of the Town. Further, Town staff are of the opinion that the sale of the subject lands to the adjacent land owner, Sobeys, is sensible and will enhance the proposed development from a programming and public realm perspective without compromising Town infrastructure or traffic/transportation matters and would not impact neighbouring residents. Should Council determine that the lands are surplus, it would be appropriate that Council adopt the following recommendations:

THAT Council determine that the Beaver Street South Road Allowance between Victoria Street South and Louisa Street West (the “subject lands”) is surplus to the needs of the Town;

THAT Town staff be directed to advertise the proposed sale of the subject lands by way of alternative method, being a direct sale to the adjacent landowner, Sobeys, in accordance with Town Policy; and,

THAT Council direct that a Municipal Class Environmental Assessment (MCEA) be completed for the proposed alterations to the Beaver Street South/Louisa Street

West/Victoria Street South intersection as part of the planning approval process related to the proposed development of the lands bounded by Arthur Street West, Victoria Street South, Louisa Street West and Lansdowne Street South.

C. The Blue Mountains' Strategic Plan

Providing a strong, well managed municipal government.

D. Environmental Impacts

N/A

E. Financial Impact

TBD

F. In Consultation With

N/A

G. Attached

Nil

Respectfully submitted,

D. Finbow
Director, Planning & Building Services

Planning Application, further noting that public engagement is achieved through the planning process. Duncan then noted the public need to have an opportunity to express their concerns on the proposed disposal and closing of the road.

Moved by: Michael Martin Seconded by: D.R. McKinlay

THAT Council recognize David W. Angelakis of HDR Corporation to speak on behalf of Sobeys' regarding agenda item F.3 Beaver Street South Road Allowance between Victoria Street South and Louisa Street West, Thornbury, PL.13.68, Carried.

David Angelakis spoke noting in a Schedule A+ environmental assessment all that is required for the closure of the facility is notification. David noted that because the site will proceed through rezoning, the public process will be addressed at that time, further noting that a public meeting will be scheduled. David then noted that the traffic study will speak to the proposed closure.

Moved by: Michael Martin Seconded by: D.R. McKinlay

THAT Council defers consideration of Staff Report PL.13.68 "Beaver Street South Road Allowance between Victoria Street South and Louisa Street West, Thornbury", and

THAT staff report back to Council considering the closing and sale of Beaver Street.

In speaking to the Motion, Councillor Gamble noted that he has concern with the closure of Beaver Street because it is a route to Sideroad 33 and is an outlet for units in the Far Hills development. Bob then noted that redirecting heavy commercial traffic will result in a situation of heavy trucks stopping at stop signs in the residential areas. Bob then noted that Thornbury should be maintained as a small town community, further noting that he cannot support closing Beaver Street.

Duncan spoke noting David Finbow will review the correspondences received and report to Council on what is required.

Council then voted on the motion, Carried.

F.4 Council and Committee Structure – 3 Week Rotation, A.13.01

Councillor Martin spoke noting he is not concerned with moving to a Committee of the Whole structure, but noted this is a big time commitment. Michael suggested that Council rotate chairing the Committee of the Whole meeting.

RECEIVED

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TOWN OF THE BLUE MOUNTAINS
PLANNING & BUILDING SERVICESPER 

Ms. Corrina Giles
Town Clerk
Town of the Blue Mountains

Dear Ms. Giles

Re: Proposed Closure and Sale of Beaver St. between Louisa St. and Victoria St.

On May 27, 2013 Town Council deferred consideration of the closure and sale of Beaver St. between Louisa St. and Victoria St. The deferral of this matter permitted the Appleridge Community (Grey Condominium Corporation #10) to discuss this matter at our Annual General Meeting (AGM) that was held on June 15, 2013.

Council's deferral of this matter also allowed time for members of our Condominium Board to meet with representatives from Sobey's and their Planning and Transportation consultants. A productive two-hour meeting with Sobey's did take place on June 7, 2013.

A lengthy discussion of the Town's proposal to close and sell Beaver St. to Sobey's took place at our AGM on June 15, 2013. At the conclusion of our discussion, a vote of all owners in attendance was taken. It was the unanimous position of all owners in attendance that Beaver St. remain open and not be sold to Sobey's. In addition, the owners discussed the use of the triangular parcel of land bounded by Victoria St., Louisa St. and Beaver St. The owners unanimously voted that the triangle of land remain zoned for Open Space and not be developed in concert with the land owned by Sobey's.

Lastly, the Appleridge owners discussed what our position would be if Town Council decides to go against the wishes of the local community and close off and sell Beaver St. to Sobey's. It was the unanimous position of owners in attendance at the AGM that if the Town closes Beaver St., a stop sign must be installed for northbound traffic approaching Louisa St. Also, truck traffic must be prohibited on Beaver St. which is a residential street. In addition, any future building developed on the Beaver St. road allowance and the triangle of land must be set back 10 metres from the Louisa St. right of way and considerable landscaping be planted on the south edge of the triangle to buffer the Appleridge residences facing Louisa St.

In conclusion, the Appleridge owners do not support the closure and sale of Beaver St. and the owners do not support the development of the triangle of land, currently zoned for Open Space, bounded by Beaver St., Victoria St. and Louisa St.

Yours truly,

Rod McPhail,
President, Appleridge
Grey Condominium Corporation #10