

REPORT

Council

Meeting Date: October 23, 2023

FROM: Legal Department

DATE: October 10, 2023

SUBJECT: **Utility Easement in NHS Block at Wheatboom Drive and
Trafalgar Road**

LOCATION: NHS Block at Wheatboom Drive and Trafalgar Road

WARD: Ward 7

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RECOMMENDATION:

That the Town Solicitor be authorized to transfer a utility easement to Enbridge Gas, and any other utility company that requires it, across the Town's NHS block at Trafalgar Road and Wheatboom Drive in the approximate area shown on Appendix "A" attached to this report.

KEY FACTS:

The following are key points for consideration with respect to this report:

- Enbridge Gas has requested an easement across a portion of the Town's NHS block at Trafalgar Road and Wheatboom Drive in the area shown on Appendix "A" attached to this report (the "Easement Area").
- The Easement Area has an area of 4.5 square metres and is beside a private road.
- Enbridge Gas cannot put their utilities in the private road because they cannot reach their depth requirements for travelled roads without interfering with the Town culvert that crosses the private road.
- The installation of underground utilities will not materially impact the Town's use of the NHS block, so staff are supportive of granting the easement.
- Since the Easement Area is so small and Enbridge Gas is a public utility, staff are recommending transferring the easement at a nominal cost.

BACKGROUND:

The Town owns a NHS block at the corner of Trafalgar Road and Wheatboom Drive which is used for passive green space and stormwater management. There is a

private road off Wheatboom Drive that borders the east side of the service block. Normally the utility companies would bring their services through the private road. However, there is a Town culvert that crosses this private road and restricts the depth at which the utilities can be placed in the private road. Enbridge Gas advised that their depth requirements for installing utilities underneath a travelled road is deeper than if the services were underneath landscaped areas. So, they can reach their depth requirements above the Town's culvert only if the services are installed within the Town's NHS block.

Enbridge Gas has requested the Town permit their services in a triangle next to the private road within the Town's NHS block shown on Appendix "A". This triangle is where the services cross the Town's culvert. The Easement Area is approximately 4.5 square metres in area, and no trees will be impacted by the installation.

By-law 1995-171, as amended by By-law 2010-104, sets out procedural requirements related to the disposition of an interest in land. For an easement, the requirements as modified by By-law 2010-104 require a public report:

- Identifying the parcel of land and the interest proposed to be transferred;
- Setting out the reason why the property may be considered surplus to the needs of the municipality; and
- Advising that at least one appraisal of market value has been obtained unless such an appraisal would not have been required under Section 268 of the Municipal Act, 2001 as it read prior to its repeal.

Easements to public utility companies are one of the exemptions to the appraisal requirement, so a fair market value appraisal is not required.

COMMENT/OPTIONS:

The purpose of this report is to fulfill the procedural requirements necessary to allow Council to consider granting a utility easement to Enbridge Gas, and any other utility agency that requires it, over the Easement Lands. Currently, only Enbridge Gas has requested the use of the Easement Area for utilities.

The identified interest in land may be considered surplus to the Town's needs because the installation of underground utilities will not have a material impact on the Town's use of the NHS block. Enbridge Gas advised that they do not have a suitable alternative because of the need to cross the Town's culvert. Enbridge Gas will be responsible for obtaining any approvals from Conservation Halton prior to installation, if required.

Even though the appraisal is not required under the Town's disposition by-law, the Town could still insist on an appraisal and require the utility companies to pay fair market value for this easement. However, the Easement Area is so small that the

market value is likely to be smaller than the cost required to obtain the appraisal. Therefore, staff are recommending transferring the easement at a nominal value.

CONSIDERATIONS:

(A) PUBLIC

The inclusion of this report in the Council agenda will provide public notification.

(B) FINANCIAL

The utility companies will be responsible for all costs required to transfer the easement.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

The Parks and Open Space, Transportation and Engineering and Planning Departments were consulted in the preparation of this report.

(D) CORPORATE STRATEGIC GOALS

This report addresses the corporate strategic goal to be the most livable town in Canada.

(E) CLIMATE CHANGE/ACTION

N/A

APPENDICES:

Appendix A – Map showing the location of the proposed easement

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