



## **REPORT**

**REPORT TO:** Mayor Rick Bonnette and Members of Council

**REPORT FROM:** Kevin Okimi, Director of Parks and Open Space

**DATE:** August 21, 2020

**REPORT NO.:** RP-2020-0018

**RE:** Acton Legion Seniors Residence – Pedestrian Connections and License Agreement

### **RECOMMENDATION:**

THAT Report 2020-0018 regarding Acton Legion Seniors Residence – Pedestrian Connections and License Agreement be received;

AND FURTHER THAT Council direct staff to include the Birchway Place Pedestrian Connection shown as Option 2 in Report RP-2020-0018 as part of the 2021-2031 Capital Budget and Forecast Review process;

AND FURTHER THAT Council direct staff to undertake design development of Option 2 in consultation with the Acton Legion Senior's Residence and the Acton Legion to further refine the scope and design of the proposed trail;

AND FURTHER THAT Council direct staff to negotiate the assumption of maintenance and capital replacement of the existing walkway between the Acton Legion and the Acton Legion Senior's Residence constructed on Town property (Part 4 on Plan 20R-1151), as outlined in Report RP-2020-0018;

AND FURTHER THAT budget impacts related to the on-going maintenance of the Part 4 on Plan 20R-1151 be referred to Budget Committee;

AND FURTHER THAT Council approve the extension of the License Agreement with Acton Legion Seniors Residence, Inc. for an additional 10 years with the same conditions as the existing agreement;

AND FURTHER THAT the Mayor and Clerk be authorized to execute any documents required to extend the license agreement.

AND FURTHER THAT the Commissioner of Recreation and Parks be authorized to approve subsequent extensions of the term, provided there are no substantial changes to the conditions of the agreement.

## **BACKGROUND:**

Acton Legion Seniors Residence Inc. (ALSR) is an independently owned and operated seniors apartment building located at 51 Birchway Place, near Fairy Lake. It was originally built around 1994, as part of the Beaver Creek Subdivision developed by the Acton Legion (See Appendix A for site context map).

There is a Town owned block (Part 4 on Plan 20R-1151) that connects the Acton Legion Property, to the ALSR property (i.e. private property to private property), as well as Town open space blocks along the edge of Fairy Lake. The ALSR uses the Acton Legion property for overflow and visitor parking and a lit pathway connects the two properties on the Town owned block. The Town purchased the block and surrounding open space lands from the Legion as part of the subdivision development, however a Right-of-Way was retained over the block solely for the benefit of residents of 51 Birchway Place. As noted, the ALSR uses the Legion parking lot as overflow parking, and the existing walkway provides access to the ALSR property. Through discussions with ALSR it has been confirmed that ALSR has maintained the walkway connection both in terms of operating (grounds maintenance and snow clearing) and capital replacement of physical features (pathways and lighting) when required, given there is no public ROW.

The ALSR also has a license agreement with the Town to use portions of the adjacent Town lands as an extension to their outdoor amenity space as an outdoor vegetable garden and additional lawn areas. This license agreement was originally executed in 1999, and extended for an additional 10 years in 2009 (expired in 2019). Staff began discussions with ALSR in 2019 to discuss any potential renewal or extension of the license agreement as part of the discussion around the pedestrian linkages. The limits of the License Agreement are shown in Appendix B. It is no longer used as outdoor vegetable gardens.

## **COMMENTS:**

The purpose of this report is to seek Council direction on the creation of formal pedestrian linkages from Birchway Place to the Acton Legion and to approve a renewal of the license agreement with the ALSR regarding the additional open space lands.

In late 2018, the Town received public inquiries/complaints from residents in the Birchway Place neighbourhood that the ALSR had constructed a fence, preventing pedestrian access to the Acton Legion along the existing pathway.

As a result of the public inquiries, staff reached out to the Property Manager for the ALSR property to discuss the reasons for the closure of the accessway, as well as any additional information related to the file. As part of the review, staff discovered that the license agreement with ALSR regarding the Town lands adjacent to their property was to expire in 2019.

Due to the relation of these two issues, staff took the following steps to review the situation:

- 1) On-site review of existing and potential pedestrian connections from Birchway Place to the ALSR property - December 2018/January 2019
- 2) Ongoing discussions with the ALSR regarding options for pedestrian connections, as well as the need/desire to renew the license agreement January 2019 - present
- 3) Consultation with the Town's Active Transportation Committee regarding pedestrian connections April 2019
- 4) Public Consultation on the Town's Let's Talk Halton Hills site November 2019 to February 2020

Based on staff's discussions with ALSR, the fencing was installed to prevent public access across the ALSR property due to concerns about liability, property damage and privacy concerns. The access used by residents of Birchway Place across the ALSR property did not have a formal pathway, descended a steep slope which could be slippery in winter, and had been improperly used by snowmobiles/ATVs creating a safety risk to residents of ALSR and the general public. In addition, it passed in close proximity to the private amenity space of some units. Due to these reasons, the Property Manager and Board decided to install secure fencing to close off the public access through the ALSR property. Staff believe the ALSR's concerns and decision to close the existing informal access were reasonable.

Based on the review of documentation, the Town (and general public) do not have any formal legal access or ROW over the ALSR property, which could compel the ALSR to permit the general public to access across their property. Given that the ROW over the Town walkway block (Part 4 on Plan 20R-1151) was retained solely for the benefit of the residents of 51 Birchway Place, any prior access appears to have been permitted at the discretion of the ALSR.

Based on staff's review of the site features in the adjacent open space, two options were identified that could provide pedestrian access from Birchway Place to the Acton Legion Property.

- 1) **Option 1:** Formalize an agreement with the ALSR whereby the Town would construct, and maintain an access across the ALSR property, linking to the Town owned block. This would require the Town to also assume maintenance and capital responsibility of the existing walkway block (currently being done by the ALSR) as well as any new pathway. This access would be paved and maintained by the Town including winter maintenance. Due to the elevation change, this path may not be barrier free or universally accessible (steps required).
- 2) **Option 2:** Construct a separate pedestrian trail (unlit) through the open space areas owned by the Town, connecting to the existing walkway block on Birchway Place (adjacent to the storm water management pond). This option would be a granular path (similar to Hungry Hollow), and would not be maintained in winter, however would likely be barrier free/accessible. The Town would also be

required to assume at least partial maintenance of the existing walkway block as it would now be part of a publicly accessible pedestrian walkway system. This option has been reviewed on site by staff and has been determined to be feasible on a preliminary basis, subject to detailed design and review with Credit Valley Conservation.

As part of the review of these options, staff also identified the potential for a trail linkage from the existing walkway block on Birchway Place to Mill Street. The preliminary review identified that a trail could be feasible through this open space area. This trail linkage would also be a granular trail (unlit) which would not be maintained in winter. Staff also noted there is evidence of encroachment by homeowners into the open space area. The two options, as well as the potential trail linkage can be seen in Appendix C. Photos of both options, as well as the additional trail linkage are included as Appendix G.

Staff reviewed both of these options, including the additional trail linkage, with the Active Transportation Committee. The Committee was supportive of either option, and recommended both options and the additional trail be part of a public consultation, as well as included in the proposed Active Transportation Master Plan which is currently nearing completion.

In order to obtain public feedback on these options, a Let's Talk Halton Hills page was created to conduct a survey of the local neighbourhood, as well as an extended area beyond Mill Street. A total of 60 responses were received for the online survey.

The general results of the key points of the survey are summarized in the following table:

<b>Survey Question</b>		
Agree with the need for pedestrian linkages from Birchway Place to the Legion	Support 78%	Opposed 22%
Support Option 1 (agreement with ALSR)	33.9%	
Support Option 2 (separate trail)	52.5%	
Do Nothing	13.6%	
Concern for the additional trail proposed	No concerns 69%	Concerned 31%

The full public consultation report including resident comments (personal information redacted) is available as Appendix D. Staff also note that in a Public Survey conducted regarding Fairy Lake in the summer of 2019 on Let's Talk Halton Hills, 84% of the 259 respondents were in support of creating additional public use trails along the edge of Fairy Lake.

As part of the consultation, the Property Manager for the ALSR also consulted with the Board of ALSR. The Board does not support either option, and facilitated a petition for their residents sign opposing the potential trail shown in Option 2. A letter (dated January 30, 2020) from the ALSR Board is included as Appendix E, which outlines their concerns and opposition to both options. Further, confidential Appendix F includes a petition signed by residents of 27 of the 48 units (approximately 56%) which expresses concerns about the proposed options. The petition outlines the same points as the letter from the Board but is confidential due to the names of the residents being included. Some residents of the ALSR were supportive of the proposals and provided comments by email or through the Let's Talk consultation. Staff undertook additional consultation with the ALSR Board in August of 2020 to further discuss the options. The ALSR Board provided a supplemental letter (dated August 28, 2020), also included in Appendix E which outlines considerations should the Town proceed with a pedestrian connection.

The Acton Legion was also included in the public consultation mailout, and did not provide any formal comments. However, subsequent discussion with Town staff noted that there were no concerns with either option. The Legion also supports community access to the Legion with public use trails/walkways. The Acton Legion is a key community destination with the Legion activities, community hall and meeting rooms/lounges, and a park-like property which includes historical/educational features. The site also serves as a key pedestrian linkage to Downtown Acton.

While there was not clear overwhelming support for either Option 1 or Option 2 from the general public, staff recommend proceeding with Option 2 is the preferred option for the following reasons:

- 1) The survey showed significant support (78%) that a pedestrian linkage between the Birchway Place Neighbourhood and the Legion was needed.
- 2) Trail connections around Fairy Lake are supported by the broader public both through previous trail master plan studies, as well as the recent public consultation in 2019 (84% support) and the proposed Active Transportation Master Plan (underway).
- 3) The Acton Legion is a key community destination as noted above.
- 4) Encouraging pedestrian connections and walkability not only supports Active Living, but also Climate Change and Sustainability initiatives.
- 5) ALSR has indicated that they do not wish to implement Option 1 across their property, and though they prefer that no linkage be installed, they have provided some considerations should the Town proceed with Option 2.
- 6) Privacy/Security concerns can be addressed through detailed design with fencing/landscaping at key locations if necessary, or by location of the trail within the natural area. The proposed trail would be approximately 2m lower than the ground floor of the ALSR and the proposed trail would be setback from the ALSR (12 m from the property line, and 17 m from the edge of building). The minimum setback for trails from property lines in areas like Georgetown South has been 5m.

- 7) Option 2 is constructed wholly on Town property and no further agreements or easements are required.
- 8) Option 1 would include higher ongoing maintenance costs for winter maintenance (including possible maintenance of stairs), increased capital replacement costs, as well as require a more complex agreement to address liability and maintenance obligations. Staff recommend that with Option 2, the Town assume summer maintenance of the existing walkway block (in conjunction with trail use), and capital replacement of the paved walkway surface within the Town owned block.

The trails on Town property (Option 2 and Additional Trail) are also included in the proposed Active Transportation Master Plan which undertook a comprehensive Town wide consultation, and is expected to be at Council for formal approval in Fall of 2020.

As part of the ongoing discussions, the ALSR Board has also indicated that they wish to extend the terms of the license agreement in order to maintain the additional green space and garden area surrounding their property. They are also requesting that the Town take over the maintenance of the Town owned block (Part 4 on Plan 20R-1151) connecting to the Legion. Staff are supportive of this extension, as it maintains a buffer between the ALSR property and the potential trail (Option #2).

#### **RELATIONSHIP TO STRATEGIC PLAN:**

The recommendations of this report support the following Halton Hills Strategic Plan priorities, focus areas and values:

**Transportation:** Getting around is safe for residents of all ages through a combination of traffic calming and active transport priority routes and trails.

**Climate Change and Environment:** The municipality makes its landscape more climate resilient and beautiful through a lush tree canopy and public open space.

**Sustainable Development Goals:** Ensure healthy lives and promote well-being for all at all ages.

## **FINANCIAL IMPACT:**

The preliminary financial impacts of the 3 scenarios considered are outlined in the table below.

	<b>Option 1</b> (ALSR agreement)	<b>Option 2</b> (Separate town Trail)	<b>Additional Trail</b>
Capital Construction (estimated)	\$16,000	\$23,000	\$27,000
Annual Operating Costs (estimated)	\$3,500 (incl. winter control)	\$2,000 per year (incl. turf maintenance of existing walkway block)	\$700
Capital replacement	Required for future paved surfaces (new and existing)	Required for existing paved walkway	Not required with regular maintenance

The preliminary estimated capital cost to construct the trail as shown in Option 2 is \$23,000 (trail only). Further an annual operating allowance of \$2,000 would be required for the ongoing maintenance of the trail including turf maintenance for the existing walkway block.

Staff is recommending that the funding requirements be incorporated into the 2021-2031 Capital Budget and Forecast for consideration by Council at Budget Committee.

## **CONSULTATION:**

Staff from the Transportation and Public Works Department and Planning and Development (Legal) were consulted as part of this review. The Active Transportation Committee also reviewed this proposal in 2019.

## **PUBLIC ENGAGEMENT:**

A survey was conducted through Let's Talk Halton Hills and a community mailout was sent to the Birchway Place and nearby neighbourhoods (60 respondents). Residents who participated in the public survey were advised of this report to Council. A public survey about Fairy Lake was also conducted in 2019 which included questions about trails around Fairy Lake (259 respondents). Staff also consulted with the ALSR Board.

**SUSTAINABILITY IMPLICATIONS:**

The Town is committed to implementing our Community Sustainability Strategy, Imagine Halton Hills. Doing so will lead to a higher quality of life.

The recommendation outlined in this report advances the Strategy's implementation.

This report supports the Social Wellbeing and Environmental Health pillar(s) of Sustainability and in summary the alignment of this report with the Community Sustainability Strategy is Excellent.

**COMMUNICATIONS:**

Members of the public who have expressed an interest in this project will be advised of the outcomes of this report.

**CONCLUSION:**

Staff recommends that Council approve the creation of a public use trail (Option 2) to create a pedestrian linkage from Birchway Place to the Acton Legion, subject to the detailed design and capital budget review process.

Staff further recommends that the license for ALSR be extended for an additional 10 year term.

Reviewed and Approved by,

A handwritten signature in black ink, appearing to read "Warren Harris".

Warren Harris, Commissioner of Recreation and Parks

A handwritten signature in black ink, appearing to read "C. Mills".

Chris Mills, Acting Chief Administrative Officer