
Subject: Uploading a Section of Livingston Avenue, Town of Grimsby to Niagara Region

Report to: Public Works Committee

Report date: Tuesday, July 14, 2020

Recommendations

1. That pursuant to its authority under Subsection 52(1) of the Municipal Act, 2001, Regional Council **APPROVE** adding the following lower-tier highway in the Town of Grimsby to its highway system, namely Livingston Avenue from Casablanca Boulevard to west of Emily Street, within the limits of Ofield Orchard Plan 441;
2. That a copy of this report and a copy of Regional Council's decision **BE SENT** to The Corporation of the Town of Grimsby;
3. That the necessary by-law **BE PREPARED** and **PRESENTED** to Regional Council to add the highway to the Regional Road system; and
4. Upon passage, a copy of the by-law **BE SENT** to The Corporation of the Town of Grimsby, as the highway will be removed from the jurisdiction of the Town.

Key Facts

- The purpose of this report is to seek approval to upload and vest the jurisdiction to Niagara Region of the approximately 210m section of Livingston Avenue from Casablanca Boulevard to west of Emily Street, within the Town of Grimsby.
- The Municipal Act, 2001 provides in section 52 that an upper-tier municipality may add a lower-tier highway, including a boundary line highway, to its highway system from any of its lower-tier municipalities and in section 53 that the upper-tier municipality assumes any agreements that are related to the uploaded section of highway and shall pay to the lower-tier municipality, before the due date, all amounts becoming due upon any debt of the lower-tier municipality in respect of the highway.
- In 1957, the Ofield Orchard Plan 441 was registered dedicating streets as public highways including Livingston Avenue from Casablanca Boulevard to the westerly edge of subdivision (west of Emily Street).
- During the 1970's the Grimsby Traffic Study confirmed the need for future east-west capacity along the Livingston Avenue Corridor and the Town of Grimsby constructed a sanitary sewer line along the Livingston Avenue corridor from Casablanca Boulevard to Hunter Road.

- On May 6, 1982, Regional Council passed By-law 3079-82 to dedicate the Livingston Avenue Corridor lands from Oakes Road to west of Emily Street as Regional Road 512. The By-law did not include the section of Livingston Avenue within Ofield Orchard Plan 441 between Casablanca Boulevard to west of Emily Street.
- The 1995 Town of Grimsby Transportation Study recommended the extension of Livingston Avenue (RR 512) between Casablanca Boulevard and Oakes Road which was reaffirmed by the 2017 Regional Transportation Master Plan and the 2020 Livingston Avenue Extension Environmental Assessment Study.
- In March 2019, the Casablanca Boulevard and GO Station Access Environmental Assessment study was approved that included upgrading Livingston Avenue between Casablanca Boulevard to west of Emily Street as a 2 lane urban road plus centre turn lane with dedicated cycling lanes and sidewalks on both sides of the street.

Financial Considerations

The Casablanca Boulevard and GO Station Access Environmental Assessment, approved March 2019, includes the redesign and construction of the Casablanca Boulevard / Livingston Avenue intersection and Livingston Avenue from Casablanca Boulevard westerly to the future intersection access with the Region owned lands south of the CN rail corridor.

The Livingston Avenue design (currently ongoing) and construction scheduled for late 2020 through mid 2022 is approved as part of the overall Casablanca / South Service Road Project (10RC1329).

Uploading Livingston Avenue (from Casablanca Boulevard to west of Emily Street) to Niagara Region will result in additional operating costs of approximately \$8,000 annually for the 210m, 2 lane section of road. A similar decrease in the Town of Grimsby annual operations budget would occur from the jurisdiction transfer.

The operating cost estimate is based on the Municipal Benchmarking Network (MBN) Canada 2019 operating cost per lane KM of \$18,000.

Niagara Region contacted the Town of Grimsby to relay the upload of the remaining section of Livingston to the Region. As part of that outreach Niagara Region has confirmed with the Town of Grimsby that there are no debts associated with the segment of lands for which the Region would become obligated. The operating costs

associated with this segment of road will be accommodated within the Niagara Region Transportation division operating budget.

Analysis

In October 1957, the Ofield Orchard Plan 441 was registered with the Township of North Grimsby. Plan 441 dedicated the streets as public highways including Livingston Avenue from Casablanca Boulevard (Ofield Road) to the westerly limit of the subdivision (approximately 210m). This section of Livingston Avenue is currently under the jurisdiction of the Town of Grimsby. Attached hereto as Appendix 1 is a sketch showing the location of Plan 441 and other relevant streets referenced in this Analysis (Appendix 1 – Map – RR 512 Corridor and Area Subject to Upload).

Prior to the registration of Plan 441, the Hamilton-Queenston Highway travelling through Grimsby, Beamsville and St. Catharines was designated as Provincial Highway 8 in 1925. During the 1950's and 1960's, the Department of Highways undertook studies reviewing possible diversions of Highway 8 around local communities. In the 1970's, a new alignment for Highway 8 between Oakes Road and Kerman Road was established by the Department of Highways which resulted in lands being obtained or expropriated within these limits. The Highway 8 Diversion corridor as defined by the Department of Highways is now Regional Road 512 (Livingston Avenue) east of Casablanca Boulevard.

The 1971 Grimsby Traffic Study identified the long-term requirement for additional east-west road capacity in the west portion of the Town of Grimsby to preserve the heritage/culture of the original Highway 8 corridor. The long-term Recommended Street Plan identified Livingston Avenue from Main Street West (RR 81) to Casablanca Boulevard within the Highway 8 Diversion corridor as an arterial road.

In November 1981, the Consolidated Roads Bylaw was passed (confirmed by Order in Council June 1982) that established Livingston Avenue as Regional Road 512 from Casablanca Boulevard easterly to the intersection of Regional Road 81 at Patton Street and the jurisdiction of this section vested with Niagara Region.

In 1982, By-law 3079-82 dedicated the lands within the Highway 8 Diversion corridor, between Oakes Rd. to the westerly limit of Plan 441 (West of Emily Street) as Regional Road 512 (Livingston Avenue). It is noted that By-law 3079-82 did not include the section of Livingston Avenue between Casablanca Boulevard and the westerly limit of Plan 441.

In 1995, the Town of Grimsby Transportation Study recommended the extension of Regional Road 512 (Livingston Avenue) between Regional Road 10 (Casablanca Blvd.) and Oakes Road / Regional Road 81 (Main St. West). This recommendation was included in the Town of Grimsby Official Plan (2012) to encourage the use of Regional Road 512 (Livingston Avenue) and discourage the use of Regional Road 81 (Main St. West).

The Niagara Region Transportation Master Plan, approved by Regional Council in 2017, reaffirmed that additional east-west road capacity is required in west Grimsby and recommended the Regional Road 512 (Livingston Avenue) extension from Regional Road 10 (Casablanca Blvd.) to Oakes Rd. / Regional Road 81 (Main St. West).

In 2018, Regional Council approved the undertaking of the Casablanca Boulevard and GO Station Access Environmental Assessment, which included the section of Livingston Avenue from Casablanca Boulevard to west of Emily Street to provide access for the Region owned lands on the south side of the CNR tracks.

In March 2019, the Casablanca Boulevard and GO Station Access Environmental Assessment study was approved that included upgrading existing Livingston Avenue between Casablanca Boulevard to west of Emily Street as a 2 lane urban road plus centre turn lane with dedicated cycling lanes and sidewalks on both sides of the street.

In 2018, Regional Council approved the undertaking of the (Regional Road 512) Livingston Avenue Extension Environmental Assessment study to address the need for additional east-west capacity in west Grimsby. The Environmental Assessment Study identified that the preferred solution was the extension of Livingston Avenue between Main Street West/Oakes Road North and Casablanca Boulevard.

The Livingston Avenue Extension ESR, as submitted May 2020, assumes that Livingston Avenue (RR 512) is a continuous transportation corridor from Main Street West/Oakes Road North easterly to Main Street West/Patton Street for efficiency of maintenance, operation, wayfinding, and governance.

To address the issue that By-law 3079-82 did not include the section of Livingston Avenue between Casablanca Boulevard and the westerly limit of Plan 441 and the need for a continuous Regional Road, the Region is recommending that this section of road be uploaded to Niagara Region pursuant to Section 52 of the *Municipal Act*.

- Section 52 (1) – Jurisdiction, upper-tier municipality
 - **52 (1)** An upper-tier municipality may add a lower-tier highway, including a boundary line highway, to its highway system from any of its lower-tier municipalities. 2001, c. 25, s. 52 (1).

The transfer of jurisdiction also invokes Section 53 of the Municipal Act

- If jurisdiction over a highway is transferred from one municipality to another municipality under section 52,
 - (a) the municipality to which jurisdiction over the highway has been transferred stands in the place of the transferor under any agreement in respect of the highway; and
 - (b) if jurisdiction over the highway has been transferred from a lower-tier municipality to its upper-tier municipality, the upper-tier municipality shall pay to the lower-tier municipality, before the due date, all amounts becoming due upon any debt of the lower-tier municipality in respect of the highway. 2001, c. 25, s. 53.

Region staff has confirmed with Town of Grimsby staff that there are no agreements in place to which section 53(a) would apply and there are no debts that would need to be paid pursuant to section 53(b).

Alternatives Reviewed

Do-Nothing

- This alternative does not address the objective that Niagara Region has continuous Regional jurisdiction for the section of Livingston Avenue (RR 512) between Main Street West/Oakes Road and Main Street West/Patton Street.

Relationship to Council Strategic Priorities

Uploading and vesting to Niagara Region the jurisdiction of Livingston Avenue between Casablanca Boulevard to west of Emily Street is consistent with the implementation of transportation policies and infrastructure in accordance with Council Strategic Plan (2019-2022) – Responsible Growth and Infrastructure Planning:

- Environmental Sustainability and Stewardship
- Facilitating the Movement of People and Goods

[2020 Council Strategic Priorities](https://www.niagararegion.ca/priorities/default.aspx) (<https://www.niagararegion.ca/priorities/default.aspx>)

Other Pertinent Reports

[Niagara Region Transportation Master Plan](https://www.niagararegion.ca/2041/transportation-master-plan/default.aspx)

(<https://www.niagararegion.ca/2041/transportation-master-plan/default.aspx>)

[Casablanca Boulevard and GO Station Access Environmental Assessment](https://niagararegion.ca/projects/casablanca-livingston-ea/default.aspx)

(<https://niagararegion.ca/projects/casablanca-livingston-ea/default.aspx>)

[Livingston Avenue Extension Environmental Assessment](https://niagararegion.ca/projects/livingston-ea/default.aspx)

(<https://niagararegion.ca/projects/livingston-ea/default.aspx>)

Prepared by:

Carolyn Ryall
Director Transportation Services
Public Works Department

Recommended by:

Bruce Zvaniga, P.Eng.
Commissioner of Public Works (Interim)
Public Works Department

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with: Jack Thompson, Transportation Strategic Projects Lead; Brian McMahon, Program Financial Specialist; Dan Ane, Manager, Program Financial Support; Bruce Zvaniga, Commissioner of Public Works (Interim); Sterling Wood, Legal and Court Services; Norma Price, Law Clerk.

Appendices

Appendix 1 – Map – RR 512 Corridor and Area Subject to Upload