



## **Staff Report**

**Report #:** 2017-05R  
**Date:** April-18-17  
**Submitted By:** **Greg Delfosse, Road Superintendent**  
**Subject:** Drainage Petition - Dermott Property 5552 4<sup>th</sup> Line

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### **Recommendations:**

**Be it resolved that** Council receives the Drainage Petition - Dermott Property 5552 4<sup>th</sup> Line report;

**And that** Council denies the Petition for Drainage Works submitted by Paul and Jacqueline Dermott, on the grounds identified in this report.

### **Background:**

#### **The Situation**

The Dermott property is located at the south-west corner of the 4<sup>th</sup> Line and SR 17. They have experienced water draining across their property for many years, probably decades. In 2016, when the Town undertook reconstruction efforts along SR17 the Dermott's and other adjacent property owners asked that the Town take measures to eliminate drainage across their property. Water that used to come west along SR17 and turn south down the 4<sup>th</sup> line had been redirected by means of a small earthen berm, to continue west along SR 17 (see attached photos).

In August of 2016 a small portion of the remaining 4<sup>th</sup> line ditch that ultimately outlets onto the Dermott property was maintained, somewhat increasing the water on the Dermott lands. My promise to Mr. Dermott was to ditch along the 4<sup>th</sup> line to eliminate the possibility of water entering their property. This promise for work was for the spring of 2017. The petition provided by the Dermott's is for the Town to engage an Engineer to begin the review and benefit for a Municipal Drain.

The drainage situation at this location was largely mitigated in 2016 with the completion of the SR17 drainage works. A discussion took place with Mr. Dermott and Roads staff in the fall of 2016, resulting in staff committing to complete the needed ditching of the 4<sup>th</sup> Line beyond their property and toward the nearby watercourse in the spring of 2017. Once the ditching works are completed, the only water the Dermott's should experience on their land is rainfall.

The Dermott's have always had the option to construct an earthen berm on their property preventing any roadside water from entering their property.

### The Process

The petition was submitted to the Town Clerk on March 27, 2017, and the Clerk is required to present the petition to Council within thirty days of the submission. Council now has the opportunity to review the defined location and if necessary determine if an environmental appraisal or a benefit cost analysis is required to continue the petition drain process, or Council may deny the petition leaving the petitioner the right to appeal to the Tribunal.

Should Council consider to accept the petition, an Engineer must be appointed within 60 days to determine if the petition meets the majority requirements of the Act and is valid for proceeding. The Engineer will then set a date for a site meeting and give the petitioners the opportunity to withdraw their names and an opportunity for other property owners to add their names to the petition.

The Petition drain option is a long costly process that could ultimately result in a Municipal drain across the Dermott property and possibly the property west of them. A Municipal Drain is a municipally owned ditch or pipe within an easement across private property, with the town having all rights for access for maintenance purposes. All costs of the constructed works will have assessments levied to the owners benefitting from the drain which in this case will be the Dermott's and the next westerly property. This would likely result in a 50/50 assessment split. Costs of these drains are in the hundreds of thousands of dollars. This is not a reasonable option for a situation that has been largely corrected, and will be completely resolved by the ditching work that was planned and will take place in the coming weeks. Furthermore, the property owners west of the Dermott's property did not sign the petition, and as indicated by Mr. Dermott, did not wish to. The assessment value of a municipal drain could be apportioned to this property, potentially causing cost implications for the owners.

### **Financial Impact:**

Based on information in the 2017 Rural Municipal Drainage course, a simple drainage situation was outlined with a cost estimate of \$150,000.00 assessed to several properties in the illustration. This is a costly process. There is a grant application process available provided certain criteria are met. Grants are applied for just before the construction stage.

### **Consultation:**

The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) conducted a 2017 Rural Municipal Drainage Course in Leamington on April 5, 2017 which I'd attended and have utilized their manual as reference. "The Top 10 Common Law Drainage Problems Between Rural Neighbours" published in April 1998 was also used as reference material.

### **Conclusion:**

On April 11, 2017, M. Dermot was invited to the Town Hall to discuss options at this location. Staff recommended that he withdraw his petition with the plan to honour earlier promises and finalize the roadside ditching work. Mr. Dermott chose to decline the offer and pursue the Petition to Council.

It is my recommendation the Council deny the petition as final roadside ditching will complete the redirection of all roadside water as well as private water conveyed by the roadside system. The petition will at that point become baseless leaving the Dermott's an opportunity to appeal to the Tribunal should they feel the Town's solution inadequate.

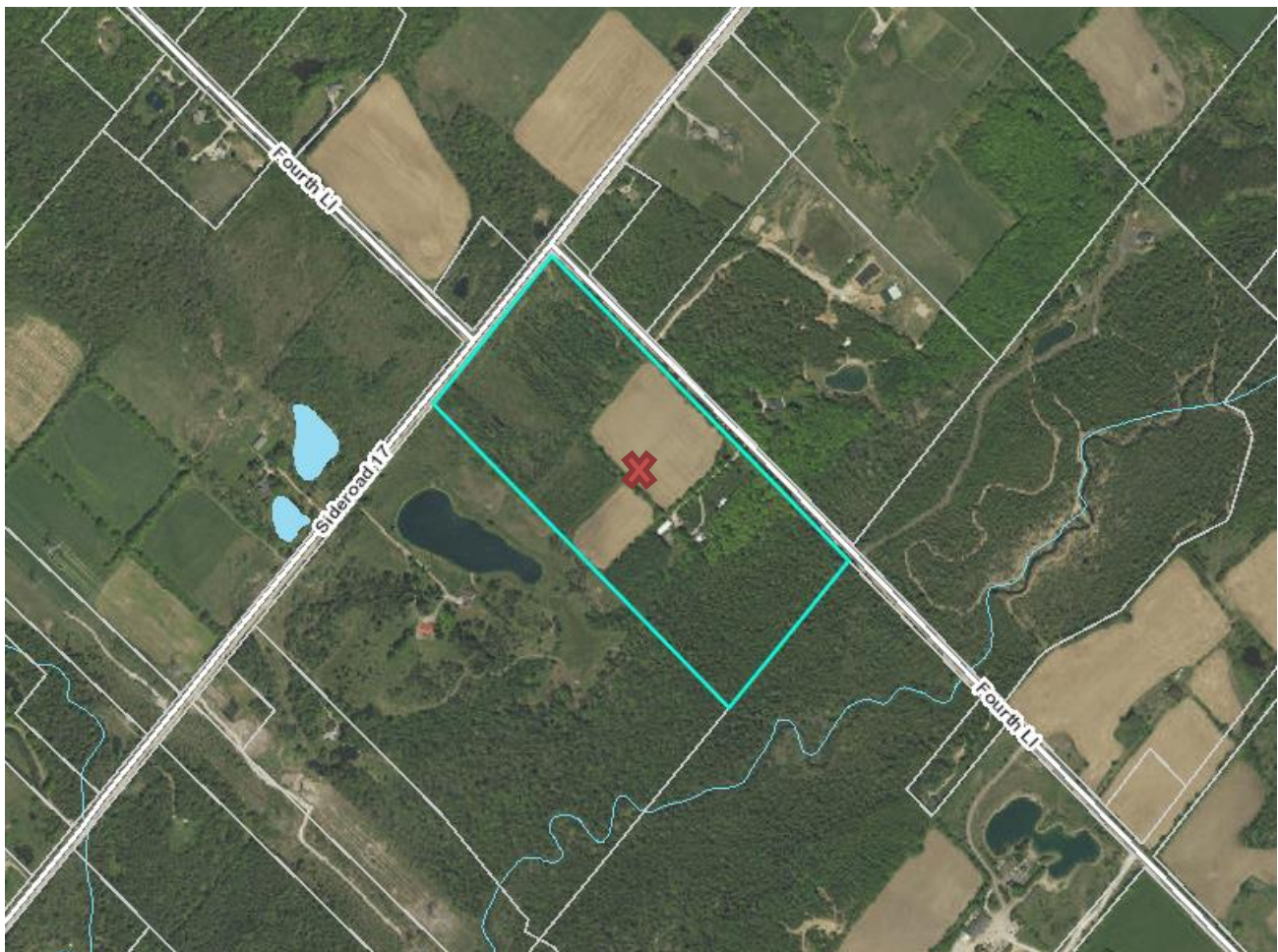
### **Appendices:**

Appendix A – Petition for Drainage Works by Owners

Appendix B – Petition Drain Procedure Under the Drainage Act (Flowchart)

Photos of the property and surrounding area

5552 4<sup>th</sup> Line





Sideroad 17 and 4<sup>th</sup> Line:

SE Corner - looking south



SW Corner – looking south

