

The Corporation of the Town of Lakeshore

Report to Council

Legislative & Legal Services

Legislative Services



To: Mayor & Members of Council

From: Kristen Newman, Director of Legislative & Legal Services

Date: June 1, 2020

Subject: Deeming, Permanent Closure, Stop Up and Declaration of Surplus for Emily Street Unopened Road Allowance

Recommendation

The portion of land known as Emily Street and legally known as Emily Street, Plan 203; Tilbury West; Lakeshore, being all of the Property Identifier Number 75067-0187(LT) be deemed not to be a lot on a registered plan of subdivision, and that the road allowance be closed, stopped up and declared surplus;

Administration proceed with seeking an appraisal, offering Emily Street for sale and conveying the land through a public sale process pursuant to Town Policy AD – 227, *Sale and Disposition of Land*; and,

Administration present draft By-law 47-2020 at a future Council meeting, all as presented in the report entitled, *Deeming, Permanent Closure, Stop Up and Declaration of Surplus for Emily Street Unopened Road Allowance*, presented at the June 6, 2020 Council meeting.

Background

Emily Street is a 20 metre by 129 metre unopened road allowance fronting onto Tecumseh Road in Stoney Point. A subject map of the area appears at Appendix “A” to this report, along with the Land Registry’s parcel register. Emily Street and the adjacent properties to the west and east owned are zoned as CS-Service Commercial and designated Service Commercial in the Official Plan as well. Emily Street and lots around it appear on a Judge’s Plan, Plan 203 which was registered in 1879 and constitutes a registered plan of subdivision.

Currently, the owners wishing to access the adjacent properties to Emily Street are using Emily Street despite the fact that it is an unopened road allowance. Emily Street has been the source of a significant amount of neighbourhood tension and property standards and by-law enforcement investigations. Administration has spent many hours responding to

complaints and concerns raised by the nearby property owners. The land does not operate as an open road for the Town and exists only to benefit the adjacent land owners who have made private use of it over time.

On April 9, 2019, Council, on its own motion, passed resolution 212-04-2019:

Council direct Administration to report back on status of declared surplus land on Emily Street.

In the January 14, 2020 closed session Council meeting, Council directed the following:

Council direct the Director of Legislative & Legal Services to prepare a report and the necessary by-laws to be presented to Council in open session regarding the deeming and permanent closure of Emily Street, as further described in the report of the Director presented at the January 14, 2020 closed Council meeting.

This report is presented in response to the direction given by Council at the January 14, 2020 Council meeting.

Comments

Further to Council's direction to prepare to dispose of the land, Council is required to pass a deeming by-law, close up and stop the road, and declare it surplus.

Deeming By-law

Subsection 50(4) of the *Planning Act* permits a Council to pass a deeming by-law which is a by-law designating any plan of subdivision, or part thereof, not to be a registered plan of subdivision. A deeming by-law may only be passed on subdivision plans registered for 8 years or more. This plan of subdivision has been registered since 1879 so more than exceeds the 8 year requirement.

In many cases, deeming by-laws are passed because the municipality has determined that some characteristics of the old lot fabric are not compatible with the current planning policies and the municipality wishes to prevent the sale and use of smaller individual lots.

The Town Planner advises that this is the case with the current plan of subdivision. The lots as currently registered could not be developed as they currently appear on the plan of subdivision. There have been no activities undertaken that it will be developed anytime in the near future. As such, a deeming by-law is necessary and appropriate in this situation.

Close, Stop Up and Declare Surplus

The Town's policy *Closing, Sale and Disposition of Streets and Alleys*, applies to all road allowances within the Town. Section 3.11 of that policy states:

- 3.11 In the case of road allowances, TAR [Technical Advisory Review Committee] will first determine if a road allowance can become or be converted to a viable and buildable lot. If the lot is deemed buildable, the sale will proceed under the sale and disposition of land Policy AD-227.
- 3.12 If the road allowance cannot become or be converted to a viable buildable lot, the land shall be offered to the adjacent landowners. Under no circumstances will property that is not deemed a viable building lot be offered to third parties.

Administration conducted a preliminary review of the parcel and decided that Emily Street is buildable in some manner. As such, the Town's *Sale and Disposition of Land Policy* applies (policy attached at Appendix "D").

Section 3.3 of the *Sale and Disposition of Land Policy* states:

- 3.3 Unless the best interests of the municipality dictates otherwise, as so deemed by resolution of Council, before selling any property the municipality shall:
- Declare the property to be surplus by resolution at a meeting open to the public;
 - Obtain at least one appraisal of the fair market value of the surplus property from a certified appraiser;
 - Sell the property by sealed bids unless otherwise directed by Council resolution;
 - Establish a reserve bid amount based on the appraised value if deemed necessary;
 - Give public notice of the proposed property sale in accordance with the municipality's [sic] notice by-law.

The recommendation in this report, if adopted by Council, includes the necessary resolution to close the road and declare the land surplus in order for Administration to proceed with an appraisal and proceed with a public sale of the property.

Other

Both of the adjacent property owners have been utilizing the property for access to their properties. The County of Essex advises that access to their properties can be made from the adjacent county road should the Town choose to dispose of the land. Once Council declares Emily Street surplus, Administration will provide notice to the County and the adjacent land owners of the declaration in order to provide them with time to arrange access to their respective properties.

Others Consulted

County of Essex

Financial Impacts

Any financial impacts incurred from the activities contemplated in this report are anticipated to be recovered through the sale process.

Attachment(s): Appendix "A" – Subject Property Map, Plan

Appendix "B" - Parcel Register

Appendix "C" – Draft By-law

Appendix "D" – Town Policy AD – 227, Sale and Disposition of Land Policy

Report Approval Details

Document Title:	Closure, Stop Up and Declaration of Surplus for Emily Street.docx
Attachments:	<ul style="list-style-type: none">- AppendixA-Mapandplandiagrams.pdf- AppendixB-EmilySt-Parcel Register75067-0187.pdf- AppendixC-47-2020-CloseStopUpDeclareSurplusEmilyStreet.docx- Sale and Disposition of Land Policy AD227.doc
Final Approval Date:	Jun 3, 2020

This report and all of its attachments were approved and signed as outlined below:

Rosanna Pellerito

Truper McBride