

# Municipality of Lakeshore - Report to Council

## Legislative & Legal Services



**To:** Mayor & Members of Council

**From:** Kristen Newman, Director of Legislative & Legal Services

**Date:** January 6, 2021

**Subject:** Monroe Island Interim Agreement

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### Recommendation

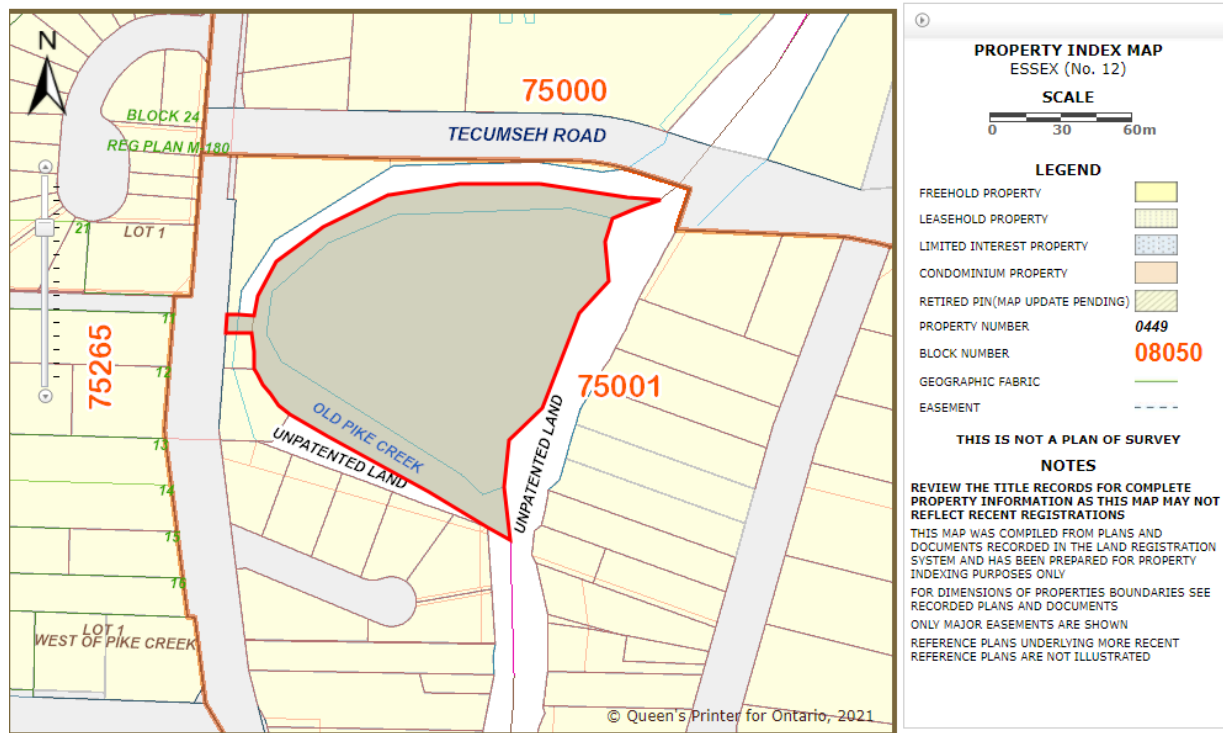
Direct the Clerk to read the execution by-law authorizing the Mayor and Clerk to execute the Monroe Island Interim Servicing Agreement between The Corporation of the Town of Tecumseh and the Property Owners based on the terms and conditions described in the report at the February 16, 2021 Council meeting;

Direct Administration to prepare a consultation plan and draft a restructuring proposal for consultation with the community and stakeholders as required by Part V of the *Municipal Act, 2001*, and,

Direct the Clerk to provide a copy of this report and any accompanying resolution to the Councils for the Town of Tecumseh and the County of Essex and the Property Owners.

### Background

Monroe Island is an island in Pike Creek in the Municipality of Lakeshore that, at one time, was accessed by car through Tecumseh by Brighton Road. The bridge extended from Brighton Road to the Island. Monroe Island has an address on Brighton Road (454 Brighton Road). The island ("Property") is zoned "Residential Waterfront-Watercourse" which permits a single detached dwelling. The Property currently has no road, driveway or water or sewage services. The strip of land in Tecumseh that was once used to access the bridge to the island has a Tecumseh address of 440 Brighton Road. They form part of the same parcel of land for the purposes of the Ontario Land Registry. Lakeshore has no plans on file with respect to servicing the site.



The Property Owner wishes to build a single detached dwelling on the island and is prepared to build a bridge and pay for the servicing required to build the single family dwelling on the property. The Property Owner wishes to build a new bridge to the Property from 440 Brighton Road. This is the closest reasonable access point to build the bridge and the Property Owners own the land at 440 Brighton Road.

In 2019, Lakeshore Town Council passed the following resolution:

1. The Town of Lakeshore encourage access and municipal servicing of this parcel, from the Town of Tecumseh, as it is easier to access (owner owns additional property on the Tecumseh side) and service this parcel in the Oxbow, than in the main waterbody of the Pike Creek; and
2. The Town of Tecumseh be made aware that the Town of Lakeshore would support servicing this parcel from the Town of Lakeshore, if additional approvals from the Province is problematic to bring this parcel into the Town of Tecumseh's Servicing Area.

The 2019 report is attached as Appendix "A".

In 2019, Tecumseh Town Council passed the following resolution:

That Report CS-2019-45 regarding servicing of Monroe Island – 454 Brighton Road, Lakeshore be received;

And that Administration be authorized to negotiate the terms of an Agreement, between the Town of Lakeshore and the owner of 454 Brighton Road for road access and municipal services by way of the owner's lands located at 440 Brighton Road, in the Town of Tecumseh;

And further that terms of negotiation for an Agreement be predicated as outlined in Report CS-2019-45;

And furthermore that once an Agreement has been negotiated, that it be presented to Council for consideration and adoption by by-law;

And furthermore over that subject to a request from the Town of Lakeshore, the Town of Tecumseh cooperate to undertake a boundary adjustment to bring Monroe Island into the Town of Tecumseh.[emphasis added]

Tecumseh's December 2019 report is attached as Appendix "B".

## **Comments**

As noted above, there is no road access to Monroe Island on the Lakeshore side. There is road access on the Tecumseh side of the Creek and, furthermore, that road access is owned by the Property Owner. Either Lakeshore (and thereafter, the Property Owner) or the Property Owner would need to acquire land on the Lakeshore side to provide road access for a bridge to be built from the Lakeshore side to Monroe Island.

Similarly, installation of service pipes for water and sanitary connections on the Lakeshore side is constrained because of the limitation of corridor or land ownership by the property owner to feasibly service the property. The owner, however, does own property in Town of Tecumseh adjacent to Brighton Road that could feasibly provide the access to road, water and sanitary municipal servicing efficiently as opposed to servicing it from Lakeshore at a much greater cost. As such, Administration is supportive of a boundary adjustment which would have the effect of annexing the Property to the Town of Tecumseh (keeping it consistent with the current legal lot fabric) with an interim servicing agreement in place to permit the development of Monroe Island to proceed while the boundary adjustment application process takes place.

## ***Interim Agreement***

The parties have negotiated the following terms for an interim servicing agreement:

- Lakeshore agrees to Tecumseh providing servicing,
- Lakeshore collects Building Permit and Development Charge fees at Lakeshore's rates,

- Lakeshore administers the building permit process and keeps the Building Permit fees,
- Development charge fees will be collected at Lakeshore's rate and transferred to Tecumseh,
- Property taxes paid to Lakeshore will be transferred to Tecumseh upon occupancy,
- Tecumseh will cooperate in the submission of the restructuring application to the Province, and,
- Lakeshore will bear the costs of the restructuring application (the draft agreement is attached as Appendix "D" to this report).

In the time leading up to restructuring, the Property would continue to be subject to, and governed by, Lakeshore's by-laws and processes.

Finally, the Property Owner would like to have the agreement signed prior to March 15, 2021 in order to ensure the necessary approvals are in place for construction this year.

### ***Restructuring Proposal***

The *Municipal Act, 2001* ["MA, 2001"] requires that a boundary adjustment occur by way of a restructuring application to the Province. A representative of the Ministry of Municipal Affairs and Housing was consulted and did not express any initial concerns regarding the proposed plan. Administration was advised to put in an application to the Province. Simple applications can take approximately 6 months; however, in light of the changed work circumstances and shifting priorities brought on by the COVID-19 pandemic, Administration anticipates that such an approval will likely take longer than 6 months. The Province provided the attached checklist and guidelines (Appendix "C" and "D") and advised that the Municipality follow the procedures set out in the MA, 2001 should it wish to pursue the restructuring application.

Part V of the MA, 2001 sets out the process for municipal restructuring and includes annexing a part of a municipality to another municipality. An excerpt of Part V is attached to this report as Appendix "B". As part of the process and before Council votes whether to support a restructuring proposal, the Municipality is obliged to consult with the following:

1. the public by giving notice of, and by holding, at least one public meeting;
2. such persons or bodies as the Minister may prescribe; and,
3. such other persons and bodies as the municipality considers appropriate.

Each of Tecumseh, Lakeshore and Essex County Councils will need to approve the restructuring proposal by a by-law with the identical proposal attached. The restructuring proposal would then be submitted to the Ministry for the Minister to consider an exercise of discretion to issue a Minister's Order pursuant to O.Reg. 204/03 to the MA, 2001 which sets out the requirements for restructuring proposals.

The proposal will need to include the new boundaries (based on a survey and reference plan), effective date, ward designation and council representation in Tecumseh, transition provisions relating to property taxes, information regarding consultation and public meeting(s).

Should Council pass Administration's recommendation in this report, Administration will work with Tecumseh Administration to finalize a schedule for the submission of the restructuring application, develop a consultation plan, and provide a report to Council regarding those plans in the spring/early summer of 2021.

### **Others Consulted**

The Corporation of the Town of Tecumseh

Ministry of Municipal Affairs & Housing

### **Financial Impacts**

If Council chooses to adopt the recommendation of Administration:

Short term implications: The expenses associated with the survey/reference plan, application and legal costs for both Lakeshore and the Town of Tecumseh were budgeted to be funded from Lakeshore's corporate legal expense account. Administration will cover the costs of the community consultation through existing budgets and processes (i.e., advertising, letters to stakeholders).

As the Property Owner has not yet applied for a building permit, the amount of the development charges owing to Lakeshore is, at this time, unknown. That amount will be transferred to Tecumseh for its servicing of the Property.

Long term implications: Lakeshore will no longer receive the property tax revenues assessed that would have otherwise attached to Monroe Island into the future.

**Attachments:**

A-August 2019 Lakeshore Council Report

B-December 2019 Tecumseh Council Report

C-Restructuring Application Checklist

D-Restructuring Guidelines

E-Draft Servicing Agreement

**Report Approval Details**

Document Title:	Monroe Island Restructuring Application.docx
Attachments:	<ul style="list-style-type: none"><li>- Appendix A-August 2019 Lakeshore Council Report.pdf</li><li>- Appendix B-December 2019 Tecumseh Council Report.pdf</li><li>- Appendix C-Restructuring Application Checklist.pdf</li><li>- Appendix D-Restructuring Guidelines.pdf</li><li>- Appendix E-Draft Servicing Agreement.pdf</li></ul>
Final Approval Date:	Feb 11, 2021

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

Rosanna Pellerito

Truper McBride