

# **The Corporation of the City of Kawartha Lakes**

## **Council Report**

**Report Number RS2018-024**

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**Date:** August 14, 2018  
**Time:** 2:00 p.m.  
**Place:** Council Chambers

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**Ward Community Identifier: 15**

**Subject:** Proposed closure of a portion of road allowance adjacent to 28 Mitchell Drive, Omemee and legally described as part of the road allowance between Lot 12, Concession 6 and 7, designated as Part 5 on 57R-7867, in the Geographic Township of Emily, City of Kawartha Lakes

**Author Name and Title:** Christine Oliver, Law Clerk – Realty Services

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### **Recommendations:**

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**RESOLVED THAT** Report RS2018-024, **Proposed closure of a portion of road allowance adjacent to 28 Mitchell Drive, Omemee and legally described as part of the road allowance between Lot 12, Concession 6 and 7, designated as Part 5 on 57R-7867, in the Geographic Township of Emily, City of Kawartha Lakes**, be received;

**THAT** the closure of the road allowance on the subject property, being a portion of road allowance adjacent to 28 Mitchell Drive, Omemee, and legally described as part of the road allowance between Lot 12, Concession 6 and 7, designated as Part 5 on 57R-7867, in the Geographic Township of Emily, City of Kawartha Lakes, be supported, in principle, in accordance with the provisions of By-law 2018-020, as amended, and the Municipal Act, 2001;

**THAT** staff be directed to finalize the process to stop up and close the said portion of the road allowance;

**THAT** a by-law (with any amendments deemed necessary) to close the road and authorize the release of the City's interest shall be passed; and

**THAT** the Mayor and Clerk be authorized to sign all documents to facilitate the road closing and release of the City's interest in the lands.

**Department Head:**\_\_\_\_\_

**Financial/Legal/HR/Other:**\_\_\_\_\_

**Chief Administrative Officer:**\_\_\_\_\_

## **Background:**

The Land Management Committee received a request from the owner of 28 Mitchell Drive, Omemee, in the Geographic Township of Emily, City of Kawartha Lakes, for a release of the City's interest in its property, which interest is shown on title to its property .

In 1927, the Corporation of the Township of Emily passed a by-Law<sup>1</sup> that closed the road and approved the sale of property described as Part 5 on Plan 57R-7867 to the adjacent owners (being the owners of 28 Mitchell Drive, Omemee). In 1997, the Township of Emily dedicated Part 5 and 6 on Plan 57R-7867 into the road system and assumed them as a public highway.<sup>2</sup> A copy of Plan 57R-7867 is attached as Appendix C. The inclusion of Part 5 into the highway was done in error; only Part 6 should have been dedicated, as Part 5 was in private ownership at that time.

By-Law 1998-20 was passed to rectify the error in By-Law 1997-32. A copy of By-law 1998-20 is attached as Appendix D. The by-law authorized the completion of a Quit Claim Deed for Part 5 on Plan 57R-7867 in favour of the owner of 28 Mitchell Drive. A copy of the Quit Claim Deed is attached as Appendix E. However, Part 5 on Plan 57R-7867 did not have a By-Law to Stop up and Close the part of the road allowance intended to be released through the Quit Claim Deed. As a result of the above series of events, the City of Kawartha Lakes inadvertently retained an interest in property now privately owned and part of 28 Mitchell Drive.

The request to remove the City's interest in 28 Mitchell was reviewed by the Land Management Committee. The Committee determined that the City of Kawartha Lakes should honour the Corporation of the Township of Emily's intention to rectify the error in By-Law 1997-32. Accordingly, the purpose of this report is to request that Council pass a by-law to stop up and close the road on Part 5 on Plan 57R-7867.

Appendix F is an aerial photo of the subject road allowance and Appendix G is the Draft By-Law to stop up and close Part 5 on Plan 57R-7867.

## **Rationale:**

The Land Management Committee has concluded that the release of the City of Kawartha Lakes' interest would honour the Corporation of the Township of Emily's decision as outlined in By-Law 1998-20 (Appendix D). The City does not own title to Part 5 on Plan 57R-7867, what the City will release is the ability of the public to use this land for travel.

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<sup>1</sup>Attached as Appendix A.

<sup>2</sup> By-Law 1997-32 (attached as Appendix B).

Public notice was completed within the Kawartha Lakes This Week on July 19, July 26 and August 2. Also, notice was completed within the Peterborough This Week on July 20, July 27 and August 3. The notice provided the opportunity for the public to express any concerns with this proposal.

The subject road allowance does not lead to water, it borders private property, and therefore, the stop up and closure would not contravene section 8.00 of By-law 2010-118, as amended.

### **Other Alternatives Considered:**

Council could refuse to close and release the City of Kawartha Lakes interest in the road allowance, but would be inconsistent with past practice and is not recommended in this circumstance.

### **Financial/Operation Impacts:**

The interest in favour of the City of Kawartha Lakes as road allowance would be released at the expense of the City of Kawartha Lakes to rectify a historical error. The estimated financial cost of this transaction is \$2,500.00 in advertising, legal and registration fees, which is included in the Realty Services' Operating Budget for 2018.

### **Relationship of Recommendations to the 2016-2019 Strategic Plan:**

The report aligns with the strategic goal of a “vibrant and growing economy” and the strategic enable or “efficient asset management”.

### **Consultations:**

Land Management Committee

### **Attachments:**

Appendix A – By-Law 1927-555



Appendix A-  
1927-555.pdf

Appendix B – 1997-32



Appendix B-  
1997-32.pdf

Appendix C – Reference Plan 57R-7867



Appendix C-  
57R-7867.pdf

Appendix D – By-Law 1998-20



Appendix D-  
1998-20.pdf

Appendix E – Quit Claim Transfer



Appendix E- Quit  
Claim Transfer.pdf

Appendix F – Aerial Map



Appendix F- Aerial  
Map.pdf

Appendix G – By-Law to Stop Up and Close



Appendix G - By-law  
to Stop Up and Close.

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**Department Head: Robyn Carlson**