

The Corporation of the City of Kawartha Lakes

Committee of the Whole Report

Report Number RS2019-004

Date: January 22, 2018

Time: 1:00 p.m.

Place: Council Chambers

Ward Community Identifier: 6

Title: Surplus Declaration, Closure and Release of the City's Right to Re-purchase the Road Allowance Between Lots 10 and 11, Concession 4, in the Geographic Township of Verulam, City of Kawartha Lakes, designated as Part 1 on Plan 57R-10655

Description: Land Adjacent to Clifford Road

Author and Title: Robyn Carlson, City Solicitor/Acting Manager of Realty Services

Recommendation:

That Report RS2019-004, **Surplus Declaration, Closure and Release of the City's Right to Re-purchase the Road Allowance Between Lots 10 and 11, Concession 4, in the Geographic Township of Verulam, City of Kawartha Lakes, designated as Part 1 on Plan 57R-10655**, be received; and

That this recommendation be brought forward to Council for consideration at the next Regular Council Meeting.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

At the Council Meeting of September 22, 2018 Council adopted the following resolution:

CR2018-557

That Report RS2018-025, **Proposed Surplus Declaration, Closure and Release of the City's Right to Re-purchase in the Road Allowance Between Lots 10 and 11, Concession 4, in the Geographic Township of Verulam, City of Kawartha Lakes, designated as Part 1 on Plan 57R-10655**, be received;

That the subject property, being the Road Allowance between Lots 10 and 11, Concession 4, in the Geographic Township of Verulam, City of Kawartha Lakes, designated as Part 1 on Plan 57R-10655, be declared surplus to municipal needs;

That Council support the closure of the road allowance and release the City's right to re-purchase the subject property in accordance with the provisions of By-law 2018-020, as amended, and the Municipal Act, 2001;

That the by-law attached as Schedule E to close the road and release the City's right to re-purchase the subject property shall be passed; and

That the Mayor and Clerk be authorized to execute any documents to facilitate the road closing and releasing the City's right to re-purchase the subject property.

Carried

This report addresses a deputation being made to the Committee of the Whole today in regards to that previous direction, for information purposes.

The Land Management Committee received a request from the property owner of the road allowance legally described as Road Allowance between Lots 10 and 11, Concession 4, in the Geographic Township of Verulam, City of Kawartha Lakes, designated as Part 1 on Plan 57R-10655 to have the City pass a stop-up and close by-law and release its interest in the subject property.

The Parcel Register for the subject property was provided by the applicant, confirming that 2085634 Ontario Limited, was noted as the owner of the subject property. The Parcel Register is attached as Schedule A.

The right of the City to re-purchase the property was set out in the Deed of Land, dated October 19, 1931 (attached as Appendix B), which included a provision "that should said lands be required at any future time for road purposes the said

Grantor herein reserves the right to re-purchase the same at the purchase price herein of \$25.00.”

Although the road allowance was sold by the former Township of Verulam as evidenced in the Deed of Land dated October 19, 1931, the road allowance was not stopped-up and closed (potentially because of the right to re-purchase). This caused the subject property to remain in the Registry system and unable to be converted to Land Titles.

The City obtained an independent legal review to confirm that 2085634 Ontario Limited was the owner of the subject property.

Land Management Committee felt that the subject property was unlikely to be required for future road development due to the fact that it ran into a swamp and from there into water over which a bridge was not likely to be placed (due to the width of the lake at this point, it would be a costly undertaking; any lake crossings in the future would be at narrower and more urban/travelled locations). Accordingly, Realty Services recommended that Council proceed with stopping up and closing the subject road allowance and releasing the City's right to re-purchase the land.

Intent of the proposal to stop-up and close the road allowance and release the City's interest was advertised in the Kawartha Lakes This Week on the 9th, 16th, and 23rd days of August, 2018. During the three week advertising period, a notice was also posted on-site and the advertisement was posted on the City's website.

Accordingly, By-Law 2018-204, approving the release of the City's right to re-purchase, was passed by Council on September 25, 2018 and registered on title to the subject property on November 29, 2018. A copy of Instrument No. R473361 is attached as Appendix C.

On August 30, 2018, the abutting property owner submitted a request to make a deputation to Council on September 11, 2018. That Council meeting was cancelled, and the deputant was advised of this. However, Staff did not recognize that the deputant was speaking in relation to RS2018-025 (his deputation request naming only the travelled road adjacent to the road allowance being considered, and the report referring to the property by its legal name only) and he was inadvertently not provided an opportunity to speak before Council at the September 25, 2018 meeting when Council resolved to pass the stop-up and close by-law and release the City's interest in the subject property. More specifically, Staff failed to contact the deputant in advance of September 25, 2018 to confirm the matter to which he intended to speak. By the time he was contacted, the matter had already proceeded.

The abutting property owner has advised that his MPAC property description includes reference to the subject road allowance and therefore, he wished for the

City to hold off on releasing its interest in the subject property until such time as he could seek legal advice for the purpose of establishing clear ownership to the subject property.

Relationship of Recommendation to the 2016-2019 Strategic Plan:

This Report does not specifically align with any of the goals or strategic enablers in the Council Adopted Strategic Plan, as it is provided for information purposes only.

Consultations:

Clerks' Department
Land Management Committee
Staples & Swain Professional Corporation

Attachments:

Appendix A – Parcel Register



Appendix A - Parcel
Register.pdf

Appendix B – Deed of Land



Appendix B - Deed of
Land.pdf

Appendix C – Instrument No. R473361



Appendix C -
Instrument No R4733

Appendix D – Map



Appendix D -
Map.pdf

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Department File: L25-18-RS003