



MUNICIPALITY OF THAMES CENTRE

REPORT NO. PDS-017-24

TO: Mayor and Members of Council
FROM: Director of Planning & Development Services
MEETING DATE: February 26, 2024
SUBJECT: **Deeming By-law & Road Closing By-law Request; Ellen Smulders (Applicant); 3775 Gore Road**

RECOMMENDATION:

THAT Report No. PDS-017-24 be received for information.

AND THAT the following by-laws be **ADOPTED** by Council at a future meeting once Ellen Smulders covers all legal expenses incurred by the Municipality:

A by-law to deem all the lots comprising Blocks 3, 4, 7, 8, 11 and 12; being the undesignated lots identified as PINs 08172-0165 (LT), 08172-0178 (LT), 08172-0190 (LT) and 08172-0193 (LT); those parts of Pendarves Street, Bandon Street, Glyn Street and Bruce Street between Market Ground and unnamed street identified by 08172-0203 (LT); and those parts of Market Ground, Niles Street, Hamilton Street and the unnamed street 08172-0203 (LT) between Dendarves Street and the Canadian National Railway on Plan 128 (geographic Township of North Dorchester), now in the Municipality of Thames Centre in the County of Middlesex, to no longer be considered lots on a registered plan of subdivision;

A by-law for the purpose of selling and closing the road allowances identified as Pendarves Street, Bandon Street, Glynn Street, Market Ground, Bruce Street, part of Niles Street north of the Canadian National Railway, Hamilton Street and the unnamed street identified as PIN 08172-0203 (LT) located on Lot 3, Concession 2 (geographic Township of North Dorchester) in the Municipality of Thames Centre, County of Middlesex.

PURPOSE:

The purpose and effect of this report is to consider a deeming by-law and a road closing by-law to deem a plan of subdivision to not be a registered plan of subdivision on the subject property and to close/dispose of the related road allowances associated with the plan of subdivision.

BACKGROUND:

The subject property is a 39 hectare (96 ac) farm parcel located on the south side of Gore Road (County Road 25) between the municipal boundary with the City of London and Shaw Road (County Road 32) and adjacent to the CN railway to the south. This property is currently designated and zoned for farming purposes. However, the south half of the farm contains part of an old plan of subdivision that consists of eight (8) road allowances and 23 individual parcels of land that are held under the single ownership by the Applicant. The Applicant is requesting that Council pass a deeming by-law and road closure by-law to deem the plan of subdivision as it applies to the property to no longer be a registered plan of subdivision and to close/dispose of related road allowances associated with the plan of subdivision with title to those parcels being held by the Municipality.

COMMENT:

Under Section 50(4) of the Planning Act, Council may by by-law deem any plan of subdivision or part thereof that has been registered for at least eight (8) years to not be a registered plan of subdivision. The subject plan of subdivision is at least eight (8) years old meeting the requirement of the Planning Act. Through the passing of such by-law, the property owner can no longer sell or build on individual lots without obtaining a severance or submission of a new plan of subdivision subject to review under the provisions of the Planning Act.

In terms of historical context, there are two By-laws that were passed by the Municipality that apply to the Smulders Property. By-law No. 18-69 passed on May 5, 1969 which designated the Smulders Property and other surrounding properties as being subject to subdivision control. By-law 41-2002 passed on May 21, 2002, is a deeming by-law that applies to Blocks 1 – 12 on Registered Plan No. 128 and includes the Smulders Property and deems the lands not to be registered plans of subdivision for the purposes of section 50(4) of the Planning Act. By-law 41-2022 was not however registered on title to all of the Smulders Property and applies to other lands than just the Smulders Property. As result, it is recommended that the Municipality pass a new deeming by-law that is registered on title for just the Smulders Property.

Once a deeming by-law has been passed for lands held in single ownership, the road pattern is dissolved, and the individual lots are merged to become a single parcel of land. Considering the subject lands are designated Agricultural under the Thames Centre Official Plan and situated in an area of the Municipality outside of a designated settlement area with no infrastructure or services, it is appropriate to pass a deeming by-law under such circumstance. Also, there is no underlying subdivision agreement in place for the coordination of development-related matters including but not limited to grading, drainage, and road construction since the plan was created prior to subdivision control under the Planning Act.

Under By-law No. 65-2022 governing the sale and disposition of surplus lands and the closing of road allowances, the Municipality is exempt from the requirement to declare the road allowances surplus prior to sale in circumstances where the surplus lands are sold to an owner of land abutting the closed highways. The lands owned by Ms. Smulders abut the closed highways. Also, By-law No. 65-2022 states that if it would not be practical or

economical to obtain an appraisal as determined by staff, then an appraisal will not be required, when the estimated value of the land to be disposed of is less than \$10,000.

There should be no requirement for an appraisal in the circumstances and the affected road allowances are recommended to be transferred to the landowner of the abutting lands, Ellen Smulders, for a nominal fee considering there is no infrastructure, or physical assets associated with those road allowances.

CONSULTATION:

Legal Counsel
Clerk
Director of Public Works
Fire Chief
County Emergency Services
Upper Thames River Conservation Authority
Utilities including Bell, Rogers, Hydro One and Enbridge
Canadian National Railway
Adjacent property owners
Website posting

To date, no issues have been identified in the circulation of this request which was conducted in compliance with Disposition By-law No. 65-2022 and Notice By-law No. 64-2022.

FINANCIAL IMPLICATIONS:

Unfortunately, there is no fee under the Fees and Charge By-law for a deeming request. With respect to our legal counsel's expenses, the applicant has agreed to pay the Municipality's legal fees up to \$5,000 plus applicable taxes. Payment should be due prior to Council adopting the required by-laws.

STRATEGIC PLAN LINK

Pillar: *Smart Planning*

Goal: *Make smart planning decisions to grow the community, while maintaining a "hometown feel"*

ATTACHMENTS:

Location Map

Prepared by: M. Bancroft, Director of Planning and Development Services

Reviewed by: D. Barrick, Chief Administrative Officer