



The Corporation of the Town of Tecumseh

Legislative & Clerk Services

To: Mayor and Members of Council

From: Laura Moy, Director Legislative Services & Clerk

Date to Council: February 22, 2022

Report Number: LCS-2022-05

Subject: Closure and Sale of Portions of Desro Drive

Recommendations

It is recommended:

That LCS-2022-05 entitled “Closure and Sale of Portions of Desro Drive” **be received;**

And that the Clerk **be authorized** to provide notice in accordance with the Town’s Sale of Land By-law No. 2003-09 and Notice By-law No. 2003-06 of the intent to close as a highway that portion of Desro Drive described as Parts 1, 2, 20, 21 and 22 of Plan 12R-19278 in the Town of Tecumseh, County of Essex (Subject Lands) and to declare the lands surplus to the needs of the Town and authorizing the Subject Lands to be sold to the abutting property owners, subject to the Town retaining an easement over Parts 1, 20 and 21;

And further that following notification, the Clerk **be directed** to a By-law for Council’s consideration to: authorize the closure of a portion of Desro Drive; declare the Subject Lands to be surplus to the needs of the Town; and authorize the Subject Lands to be sold to the abutting property owners, subject to a reservation of an easement over 1, 20 and 21;

And furthermore that the cost incurred by the Town to close up and convey the Subject Lands **be funded** from the operating budget of Legislative Services & Clerks with costs **to be recovered** at the time of sale to abutting property owners.

Background

At the December 8, 2020 Regular Meeting of Council, [Report CS-2020-41](#) entitled “Closure and Sale of a Portion of Desro Drive” was considered by Council.

At the time, Eleven Winds Holdings Inc. (Eleven Winds) was in discussions with the Town regarding proposed improvements to the existing parking area and related improvements to the grading and stormwater management of their property located at 13375 Desro Drive and was working towards the completion of engineering drawings to be approved by the Town prior to any improvements being undertaken.

The future parking lot improvements would have necessitated Eleven Winds’ acquisition of a portion of the Town’s municipal right-of-way (ROW) which fronts 13375 Desro Drive. This portion of the ROW was once utilized as part of the Desro Drive cul-de-sac, however with the prior extension of Desro Drive westerly to Sylvestre Drive, the paved portions of the road comprising the cul-de-sac bulb were physically removed.

The transfer of this portion of the former cul-de-sac was considered appropriate as it no longer serves any municipal purpose as an open road, other than a small portion which includes a public sanitary sewer, over which the Town was to retain an easement.

The purpose of this report is to advise Council that Eleven Winds has not pursued improvements to their property located at 13375 Desro Drive nor the purchase of a portion of the ROW once utilized as part of the Desro Drive cul-de-sac. The report also makes recommendations for other portions of the Desro Drive cul-de-sac bulb which are not in use to be closed and declared surplus to the needs of the Town.

Comments

The portions of Desro Drive which were the subject of CS-2020-41 were Parts 20, 21 and 22 on Reference Plan 12R-19278 in the Town of Tecumseh, and County of Essex, a copy of which is appended as **Attachment 1** to this report.

As shown on Reference Plan 12R-19278, Parts 1 and 2 were also once utilized as the northerly portion of the cul-de-sac bulb.

While Eleven Winds may not wish to pursue a purchase of a portion of the ROW at this time, it is recommended that the formal process to close the ROW, and offer it to be sold, be undertaken including Parts 1 and 2. It is also recommended that Parts 1, 2, 20, 21 and 22 be declared surplus to the needs of the Town.

In the event either of the abutting property owners are interested in purchasing a portion of the ROW in the future, the untraveled portion of the ROW will have been legally closed and available for sale in a timely manner.

Notwithstanding there is currently no interest from the abutting owners in purchasing the parts of the former Desro Drive cul-de-sac bulb, Parts 1, 2, 20, 21 and 22 should be registered as a closed highway.

Authority

The Municipal Act, 2001 S.O. 2001 c. 25 (Act) provides municipalities with the authority to pass by-laws in respect of a highway, if it has jurisdiction over the highway. The Town has authority over Desro Drive and may close a portion of the road and convey it to the neighbouring property owners.

Section 34(1) of the Act states that a by-law permanently closing a highway does not take effect until a certified copy of the by-law is registered in the proper land registry office. Accordingly, a copy of a by-law authorizing the closing of a portion of Desro Drive and the transfer of the lands must be registered in the Land Registry Office for the County of Essex (No. 12).

Prior to passing such a by-law, the Town's Notice By-law No. 2003-06 requires notice to be given in a newspaper, once a week for three consecutive weeks.

Sale of Land

The sale of Town owned lands must be carried out in accordance with By-law No. 2003-09 which establishes the procedures for the sale of surplus real property (By-law).

The procedure is summarized in **Attachment 2** as appended to this report.

In keeping with the By-law, prior to the sale of any real property, a by-law or resolution must also be passed at a meeting open to the public to declare the real property to be surplus to the needs of the Corporation.

Consultations

Development Services
Public Works & Engineering Services

Financial Implications

The estimated cost of \$5,000 to \$7,500 to close and convey a portion of Desro Drive will be funded from the operating budget of the Legislative Services & Clerks department and recovered from the abutting property owners at the time of purchase. Any value received from the sale of the lands will be credited to the Town's Infrastructure Reserve.

Link to Strategic Priorities

Applicable	2019-22 Strategic Priorities
<input type="checkbox"/>	Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.
<input checked="" type="checkbox"/>	Ensure that Tecumseh’s current and future growth is built upon the principles of sustainability and strategic decision-making.
<input type="checkbox"/>	Integrate the principles of health and wellness into all of Tecumseh’s plans and priorities.
<input checked="" type="checkbox"/>	Steward the Town’s “continuous improvement” approach to municipal service delivery to residents and businesses.
<input type="checkbox"/>	Demonstrate the Town’s leadership role in the community by promoting good governance and community engagement, by bringing together organizations serving the Town and the region to pursue common goals.

Communications

Not applicable

Website Social Media News Release Local Newspaper

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

Prepared by:

Laura Moy, Dipl. M.M.
Director Legislative Services & Clerk

Reviewed by:

Phil Bartnik, P.Eng.
Director Public Works & Engineering Services

Reviewed by:

Brian Hillman, MA, MCIP, RPP
Director Development Services

Recommended by:

Margaret Misek-Evans, MCIP, RPP
Chief Administrative Officer

Attachment Number	Attachment Name
1	Plan 12R-19278
2	Sale of Surplus Land Procedures