

Town of Whitby

Staff Report

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Report Title: Stop Up and Close Part of the Public Highway Known as Rowe Street Being Part 14, Plan 40R-10885

Report to: Council

Date of meeting: October 2, 2023

Report Number: LS 11-23

Department(s) Responsible:

Legal and Enforcement Services

Submitted by:

Francesco Santaguida, Commissioner of
Legal and Enforcement Services/Town
Solicitor

**Acknowledged by M. Gaskell,
Chief Administrative Officer**

For additional information, contact:

Laura Scott, Real Estate Law Clerk,
905.444.2843

1. Recommendation:

1. That Stop Up and Close By-law # 8021-23 be passed to stop up and close Part 14, Plan 40R-10885 as a public highway in accordance with Section 34 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended which provides that the Council of every municipality may pass by-laws for closing any highway or part of a highway.
2. That Council waive the requirement for giving public notice of its intention to stop up and close a public highway pursuant to Public Notice Policy CA 150.
3. That the Commissioner of Legal and Enforcement Services/Town Solicitor, or designate, be directed to register the By-law on title to the subject property.

2. Highlights:

- The registration of By-law # 8021-23 will stop up and close the lands as public highway.

3. Background:

The subject property is approximately 0.031 acres and is not used as a publicly traveled road, and is made up of the following parcel of land:

- Part of Lot 17, Block 4, Plan H50035, Designated as Part 14, Plan 40R-10885, being a portion of PIN 26484-0008 (LT), Town of Whitby, Regional Municipality of Durham (the "Subject Land") as outlined in red on Attachment 1.

For reference, Plan 40R-10885 is included as Attachment 2.

The Town has received correspondence dated July 20, 2023 from Owens Wright Lawyers, the solicitors for the registered owner, Tribute (Charles Street) Limited, of the Subject Land. The solicitor has requested the assistance from the Town in arranging for the passing of the necessary stop up and close by-law to correct a historical administrative oversight relating to the Subject Land. The Town does not currently own the Subject Land.

4. Discussion:

A portion of Rowe Street was stopped up and closed on May 11, 1988, by By-law No. 2320-88, being registration number D279240, a copy of which is included as Attachment 3. Due to a historical administrative oversight, the legal description attached as Schedule "A" to By-law No. 2320-88 omitted the Subject Land from the legal description of the former area of Rowe Street that was to be stopped up and closed by By-law No. 2320-88.

Further, the Town passed By-law No. 2391-88 on October 14, 1988, to authorize the sale of various parcels of land that formed part of the former Rowe Street to the abutting land owners, being registration number D295739, a copy of which is included as Attachment 4. Schedule "A" of By-law No. 2391-88 sets out the parcels to be sold and includes the Subject Land in the legal description.

Subsequently, in accordance with By-law No. 2391-88, the Subject Land was conveyed to the abutting land owner to the east, Petrus Van Hoof, which was registered on November 3, 1988, by registration number D295417, a copy of which is included as Attachment 5. However, as the Subject Land was inadvertently omitted from stop up and close By-law No. 2320-88 (please refer to Attachment 3), it is now necessary to take the steps set out in the recommendation to this report, and pass By-law 8021-23 to correct the administrative oversight and stop up and close the Subject Land as a public highway.

By-law 8021-23, if approved, would have the effect of stopping up and closing the Subject Land as a public highway.

5. Financial Considerations:

None.

6. Communication and Public Engagement:

The Public Notice Policy No. CA 150, indicates that prior to stopping up and closing a public highway, notice is to be published in a newspaper once, website posting and by direct mail to the abutting property owners. As the Subject Property has not been used as a public highway and already conveyed to the current owner, it is recommended that the notice requirements be waived.

7. Input from Departments/Sources:

Legal Services has reviewed this staff report and provided advice regarding the completion of this matter and will be facilitating the registration of the by-law.

8. Strategic Priorities:

This report advances the Priorities in Strategic Pillar 4: Whitby's Government Accountable and Responsible, in particular Objective 4.3: Deliver exceptional customer service and community engagement. The registration of By-law # 8023-23 to stop up and close the Subject Lands as public highway will ensure that the registered owner has good and marketable title of the lands.

9. Attachments:

ATTACHMENT 1 – Aerial View of Subject Property

ATTACHMENT 2 - Plan 40R-10885

ATTACHMENT 3 – Stop Up & Close By-law No. 2320-88, being registration number D279240

ATTACHMENT 4 – By-law No. 2391-88 to authorize the sale of portions of Rowe Street, being registration number D295739

ATTACHMENT 5 – Transfer/Deed of Land from Town to Peter Van Huss, registration number D295417