

DATE: February 8, 2021

REPORT NO: PD-17-2021

SUBJECT: **Recommendation Report - Deeming By-law, Caistorville**

CONTACT: Brian Treble, Director of Planning & Building

OVERVIEW:

- Township Legal Counsel, along with Legal Counsel for Sinclairville United Church and Mr. Howard, are currently in the process of conveying Church Street, Caistorville as per previous staff reports that were presented to and approved by Township Planning Committee and Council in 2020.
- In 2019, the request to close (By-law 2020-79) and convey (By-law 2020-70) Church Street was received by the Township. Portions were approved for conveyance to 9550 York Road, Jeffery Howard and Michelle Wedawin, and the Region of Niagara.
- In 2020, this property had a severance to separate the church property from the cemetery (consent file no. B03/2020WL), along with a corresponding rezoning (By-law 2021-10, file no. 1601-009-20).
- The benefitting properties to the east and the west of Church Street are described as multiple lots in an old plan of subdivision. The lots are too small to be developed separately and do not meet today's development standards.
- A deeming by-law is an opportunity to effectively merge the lots according to ownership boundaries. As long as ownership stays separate from adjacent lands, they will not merge. If lands are placed in the same name after the passage of a deeming by-law they will merge on title.
- In order to finalize the land sale process, Township Legal Counsel is recommending that these original survey lots be merged and the attached draft deeming by-law be approved.

RECOMMENDATION:

1. That, Report PD-17-2021 regarding "Recommendation Report, Deeming By-law, Caistorville" dated February 8th, 2021, be RECEIVED, and;
2. That, a Deeming By-law be passed pursuant to Section 50(4) of the Planning Act, so as to deem Lots 1,2,3 (North of David Street, Registered Plan TP-26), Lots 6,7,8,9,10 and 11 (South of York Road, Registered Plan TP-26), and Lots

1,2, and 3 (West of Church Street, Registered Plan TP-26) as not being registered lots within a Plan of Subdivision, and;

3. That, the Deeming By-law be provided to Township Legal Counsel for registration on title.

ALIGNMENT TO STRATEGIC PLAN:

Theme # 3 and 6

- Strategic, Responsible Growth
- Efficient, fiscally responsible operations

BACKGROUND:

In 2019, the request to close and convey (By-law 2020-79) Church Street was received by the Township and a portion of this closed road was then to be conveyed to the Sinclairville (Caistorville) United Church at 9550 York Road, Jeffery Howard and Michelle Wedawin, and the Region of Niagara. The road closing by-law was passed on September 28th, 2020 (By-law 2020-79) and the conveyance by-law was passed on July 27th, 2020 (By-law 2020-70).

In 2020, Sinclairville (Caistorville) United Church also submitted a severance application affecting 9550 York Road to separate the church property from the cemetery (consent file no. B03/2020WL) in order to sell the church building along with portions of Church Street to an interested party.

A rezoning application was also submitted (as part of the consent application) to rezone this property from Open Space 'OS' to Institutional 'I' (By-law 2021-10, file no. 1601-009-20) with a Holding provision in place until a letter is received confirming that all archaeological resources have identified and inventoried to the satisfaction of the appropriate Ministry. The process must satisfy licensing and resource conservation requirements prior to any future development. This allows the church building and parcel of land to be sold to the new owners with the appropriate lot size when Church Street and adjacent lands are included in the title.

CURRENT SITUATION:

Staff and Legal Counsel now feel it is necessary to pass a Deeming By-law to deem Lots 1,2,3 (North of David Street, Registered Plan TP-26), Lots 6,7,8,9,10 and 11 (South of York Road, Registered Plan TP-26), and Lots 1,2, and 3 (West of Church Street, Registered Plan TP-26) as not being registered lots within a Plan of Subdivision.

A Deeming By-law is required as the lands cannot be merged together without consent from Council. Section 50(4) of the Planning Act states that:

(4) The council of a local municipality may by by-law designate any plan of subdivision, or part thereof, that has been registered for eight years or more, which shall be deemed not to be a registered plan of subdivision for the purposes of subsection (3). R.S.O. 1990, c. P.13, s. 50 (4).

FINANCIAL IMPLICATIONS:

Not applicable to this report.

INTER-DEPARTMENTAL COMMENTS:

Staff have discussed this report and attached by-law with Legal Counsel. Legal Counsel for all parties are in agreement that this by-law should be passed to merge the above mentioned lots, such that separate ownership is all that can continue to be conveyed and sold.

CONCLUSION:

Staff recommend that a Deeming By-law be passed to merge the existing lots (as shown on attachment 2) and that the by-law be registered with the local land Registry Office.

ATTACHMENTS:


1. Survey Showing lot pattern
2. Draft Deeming By-law

Prepared & Submitted by:



Brian Treble
Director of Planning & Building

Approved by:



Bev Hendry
CAO