



OAKVILLE

## REPORT

### Planning and Development Council

Meeting Date: April 12, 2021

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**FROM:** Planning Services Department

**DATE:** March 30, 2021

**SUBJECT:** Deeming By-law 2021-058 for 176 Front Street, Lots 1 and 2, Block 78, Registered Plan 1

**LOCATION:** 176 Front Street

**WARD:** Ward 3

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#### RECOMMENDATION:

1. That By-law 2021-058 be passed which has the effect of merging Lots 1 and 2, Block 78, Registered Plan 1, in accordance with subsection 50(4) of the *Planning Act*, and
2. That Staff be directed to register the by-law on title to the subject lands.

#### KEY FACTS:

The following are key points for consideration with respect to this report:

- The subject lands are made up of two lots within a Registered Plan of Subdivision.
- As per Section 4 (e) of the Site Plan By-law 2019-114, the owner requires Site Plan (SP.1714.078/01) approval in order to facilitate the construction of additions to the existing dwelling.
- The existing dwelling straddles the lot lines of two parcels.
- The Zoning By-law requires buildings to be constructed on one lot, and to not straddle lot lines.
- A by-law under Section 50(4) of the *Planning Act* deeming the portion of the previous plan of subdivision consisting of the individual lots not to be a plan of subdivision is required to address the deficiency.
- A deeming by-law would ensure that the ownership of subject lands remains consolidated in perpetuity and that the lands cannot be conveyed as separate parcels without approval under the *Planning Act*.
- The proposed development otherwise conforms to the Official Plan and Zoning By-law, subject to a future Minor Variance application.

**BACKGROUND:**

The owner submitted a Site Plan application on November 19, 2020, which is currently awaiting its second submission to address the first submission Staff comments. During the application intake review, Staff concluded that the proposal did not comply with the Zoning By-law as the lots were separately conveyable parcels. The Zoning By-law 2014-014 defines “Lot” as:

*“one parcel of land that is registered as a legally conveyable parcel of land in the Land Registry Office.”*

The parcel as a whole is under one ownership, but the parcel as a whole includes two lots within a registered plan of subdivision. As the whole lots can be conveyed separately, the Zoning By-law views the lands as separate and therefore does not permit the construction of additions to the existing dwelling which straddles the lot line of Lots 1 and 2, Block 78, Registered Plan 1.

**IMPLEMENTATION:**

Section 50 of the *Planning Act* prevents an owner from severing a portion of their property unless the owner can rely on one of the prescribed exceptions in the *Planning Act*. One of these exceptions is if the lands being transferred are the whole of a lot or block on a registered plan of subdivision. A municipality can prevent an owner from using this exception by de-registering the subdivision in respect of that owner’s lots. The process of de-registering lot in a subdivision that are all owned by the same owner has the effect of merging those lots into one parcel and preventing the owner from severing the individual lots in the future unless a severance consent is obtained.

Subsection 50(4) of the *Planning Act* authorizes Council to designate by by-law, any plan of subdivision, or part thereof, that has been registered for eight years or more” to be deemed not a registered plan of subdivision for the purposes of part lot control. This subsection provides Council with the ability to cause abutting lots in common ownership to be merged in title and prevent those lots from being independently conveyed. The plan of subdivision for the subject lands was registered in 1834, and therefore older than eight years.

**CONSIDERATIONS:**

**(A) PUBLIC**

The passing of a Deeming By-law does not have a statutory public meeting requirement.

**(B) FINANCIAL**

None

**(C) IMPACT ON OTHER DEPARTMENTS & USERS**

None

**(D) CORPORATE STRATEGIC GOALS**

This report addresses the corporate strategic goal(s) to:

- be the most livable town in Canada

**(E) CLIMATE CHANGE/ACTION**

None

**CONCLUSION:**

By-law 2021-058, if approved, would have the effect of merging the two separate lots into a single property to reflect how it is proposed to be used. If, in future, the owner wished to sell any portion of the subject lands, a further *Planning Act* approval to divide the lands would be required, such as a Consent application. As such, it is Staff's opinion that the lots should be merged in title, as requested by the owner, to permit the construction of additions to the existing dwelling on 176 Front Street.

**APPENDICES:**

Appendix A – Deeming By-law 2021-058

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