

## REPORT

### PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: SEPTEMBER 10, 2018

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**FROM:** Planning Services Department

**DATE:** August 20, 2018

**SUBJECT:** Deeming By-law for 328 Gloucester Avenue, Lots 330 and 331  
and Part of Lot 329, Registered Plan 113 - By-law 2018-123

**LOCATION:** 328 Gloucester Avenue

**WARD:** 3

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#### RECOMMENDATION:

That By-law 2018-123 be passed which has the effect of merging Lots 330, 331 and part of lot 329 on Plan 113 in accordance with subsection 50(4) of the *Planning Act* and 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 full lots and part of a lot within a Registered Plan of Subdivision, and contain a dwelling sited in the middle of the property straddling the lot lines of two parcels.
- All three parts are owned by one owner and were thought to have merged.
- The Zoning By-law requires buildings to be constructed on one lot, and to not straddle lot lines.
- The owner of the property proposes to construct a new dwelling in the location of the existing dwelling.

#### BACKGROUND:

The owner submitted a Site Plan (scoped review) application on April 23, 2018 and subsequently submitted a Building Permit application on July 4, 2018. Both are under review. During the Building Permit review, Zoning 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."*

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The parcel as a whole is under one ownership, but the parcel as a whole includes two full lots and part of a lot 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 a new dwelling in the same location as the existing dwelling.

#### **COMMENT/OPTIONS:**

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 lots 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 June 3, 1907, and therefore older than eight years.

By-law 2018-123, if approved, would have the effect of merging the two separate lots and the part lot into a single property to reflect how it is currently used. If, in future, the owner wished to sell any portion of the subject lands, 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 a new dwelling to replace the existing dwelling.

#### **CONSIDERATIONS:**

##### **(A) PUBLIC**

The passing of a deeming by-law does not have a statutory public meeting requirement. Further, the applicant does not require any planning approvals such as a site plan or minor variance.

##### **(B) FINANCIAL**

None

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

None

**(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS**

This report addresses the corporate strategic goal to:

- be the most livable town in Canada

**(E) COMMUNITY SUSTAINABILITY**

The passing of By-law 2018-123 supports the principles of responsible land use planning and ensures that the subject lands will continue to be held in common ownership to maintain the existing neighbourhood character.

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