



Report No: BP-2021-27

October 12, 2021

From: Jacob Rheume – Chief Building Official / Director of Building, By-law & Planning

RE: Stop up, Close and Sell a portion of the Road Allowance of Alexander Street East also known as PIN 67103-0165 and a landlocked parcel of land also known as PIN 67103-0166 within the Village of Maxville, both parcels will be merged as lot additions to an e

Recommended Motion:

THAT the Council of the Township of North Glengarry receives Staff Report No. BP-2021-27;

AND THAT the Council of the Township of North Glengarry accepts the proposal and passes By-law No. 42-2021 for Stopping up, Closing and Selling a portion of the Road Allowance of Alexander Street East also known as PIN 67103-0165 & a landlocked parcel of land also known as PIN 67103-0166 within the Village of Maxville

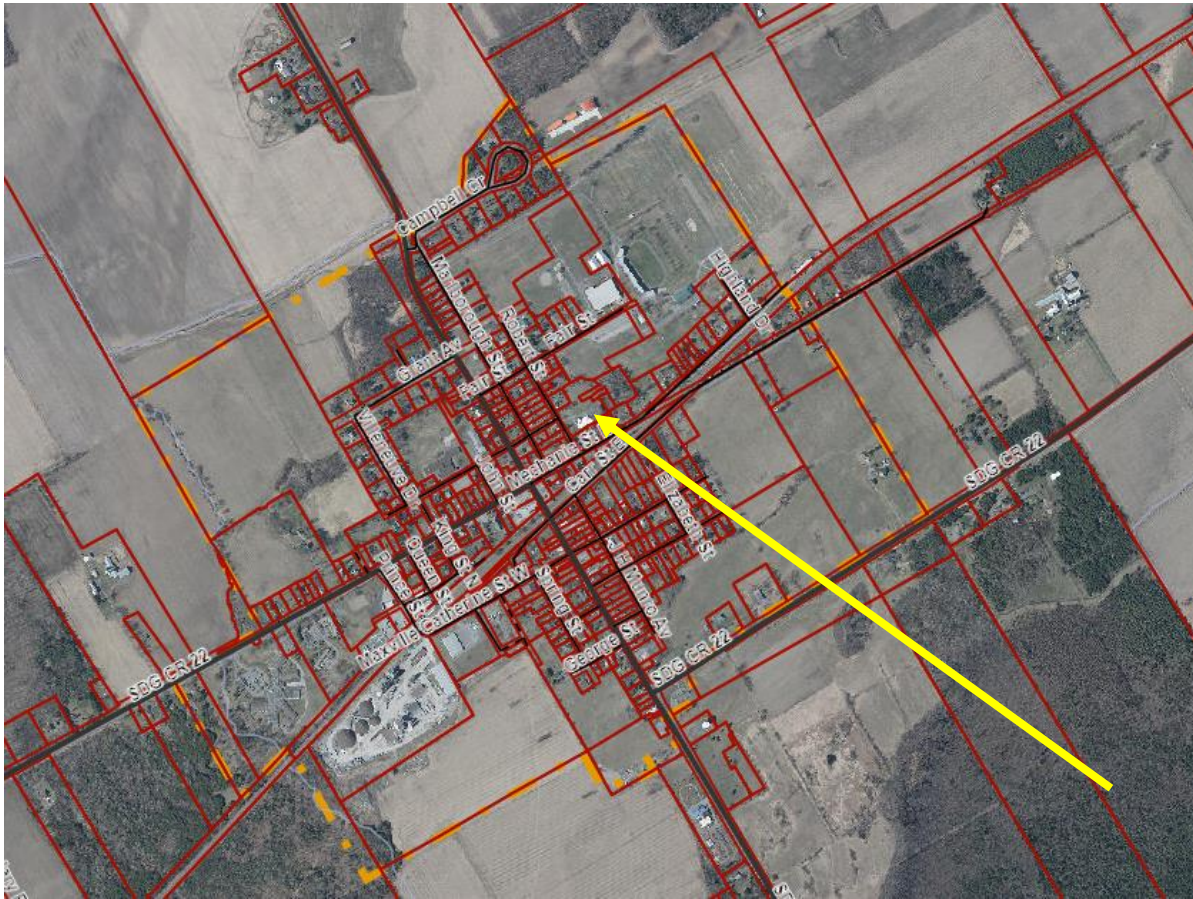
AND THAT By-law 42-2021 be read a first, second, third time and enacted in Open Council this 12th day of October, 2021.

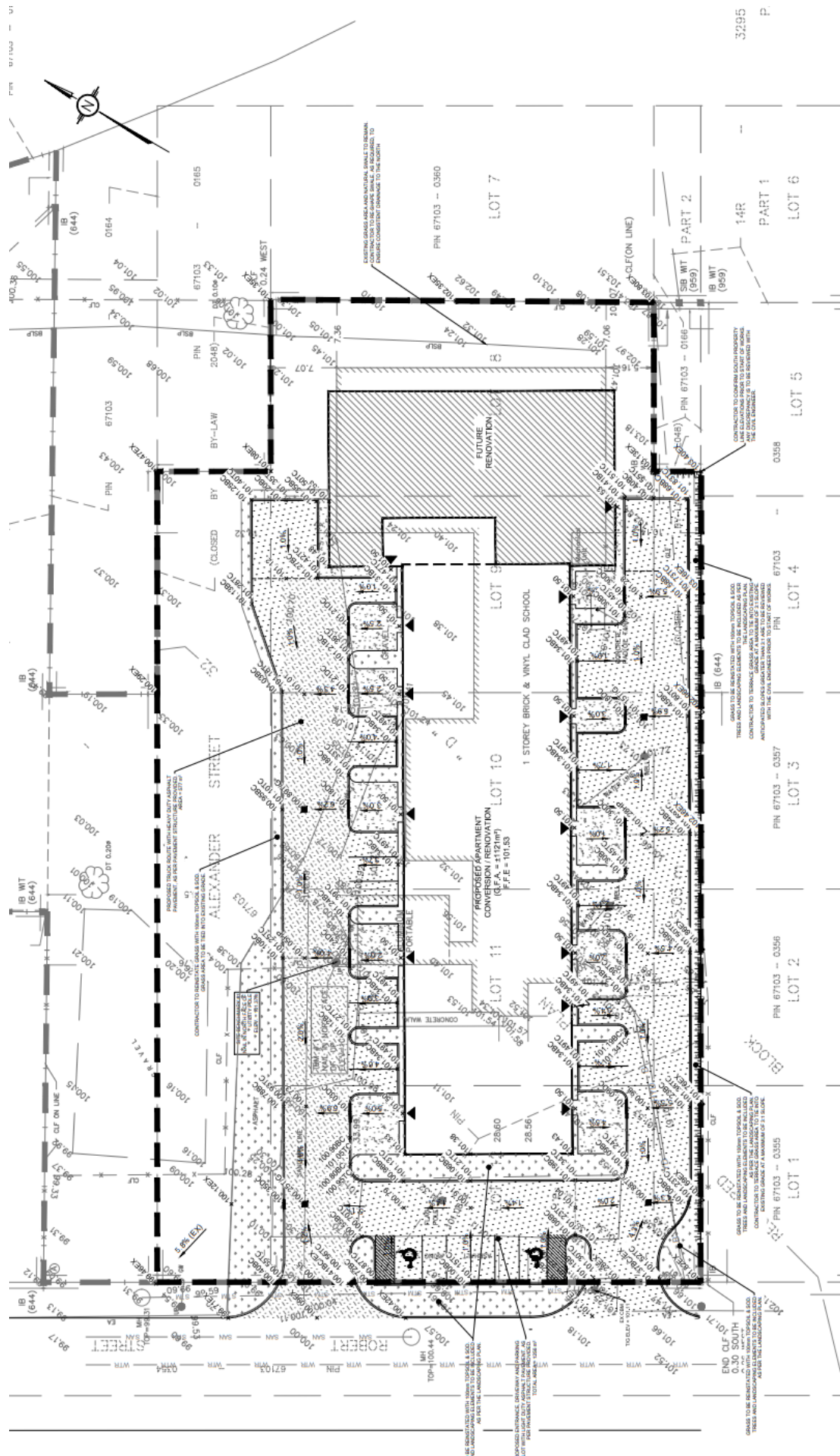
Background / Analysis:

The Township of North Glengarry has received a request to purchase a section of an abandoned, and closed section of Alexander Street, on the East side of Robert Street, in the Village of Maxville. The Township has also received a request to gain ownership for a parcel of land that was created for the school enclosure but was never registered to any property.

The request was made by the owners of the property, Stacey & James Rolland. They purchased the property adjacent to it, known as 7 Robert Street, which is the old St-Bernard Elementary School in Maxville. They are currently in the process of renovating the school to change the use of the building to residential, more precisely into an apartment complex building. The Site Plan Control Agreement was approved by Council and the building permit was issued.

Location:





The parcel of land described as PIN 67103-0165, Alexander Street Part Lot 32 East of Robert Street does not have a roll number. It is an unopened Road allowance that was already closed in the 1960's by By-law 2048 (by the Formally known Corporation of the Village of Maxville) and was described as the unopened road allowance of Alexander Street from Robert Street to its easterly limits. The Township is still the owner of that property which now could be sold, as per Municipal Act, as it was already closed-up by By-law.

The parcel is surrounded by vacant lots on the North, East and South side, and adjacent to the owner's property on the West side. It would be merged together with the owner's property, making it easier to accomplish the required grading and storm water management as required/proposed in the Site Plan.



The existence of a landlock parcel with no ownership came up when the exact location of the school fence was brought into question, it currently has no Roll number, but has PIN 67103-0166 assigned to it. The South East-Corner of the property is quite steep and will require a retaining wall to be built, as part of the Site Plan. The new retaining has to be built on the property owned by Stacey & James Rolland not to disturb the properties to the South. Should they become owner of that parcel of land, it would be easier to construct the retaining wall into a straight line and give more room for the construction of the wall, while maintaining the proposed storm water management plan included in the Site Plan. The parcel itself is currently not large enough to have any development on it and is of irregular shape. It would also be merged together with the owner's property.



The Municipal Act provides that a Council of a Municipality may pass by-laws for stopping up all or part of a highway and for selling the same. A highway includes any road under the municipality's jurisdiction.

The Township would consider requests to stop-up, close and sell Township owned road allowances provided:

- *The unopened road allowance is deemed to be not required for current or future municipal use;*
- *All costs (survey costs, legal fees, etc.) are borne by the applicant and/or to those persons whom the lands are to be sold;*
 - o *There shall be no expense to the municipality*
- *Section 34(7) of the Municipal Act, 2001 c.25, provides that a By-law which has the effect of permanently closing or altering a highway is not valid if the result is a person having no motor vehicle access to and from the person's land over any highway, unless the person agrees to such by-law;*
 - o *The Township should not create a "landlock" property by selling the land.*
- *Generally, the Township should only consider applications for road allowance closings from abutting landowners.*
- *Section 11 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a lower-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public.*
- *Council will consider applications to stop up, close, and convey road allowances and shore road allowances on a case-by-case basis.*

In this particular case, the unopened Road allowance was already closed in the 1960's by By-law 2048, therefore the parcel could be sold to any adjacent landowner. As per Municipal Act, and as per standard normal procedures used by the Township on the past, the usual process for closing and selling parts or sections of a municipally owned road is the following:

- *We are currently at the final stage (No. 7).*

1. WRITTEN REQUEST – SUBMISSION REQUIREMENTS

- a. For Council to review the request, the applicant shall submit the following information:
 - i. A letter of Request to stop-up and close a road allowance which shall include an accurate description of the portion of the road allowance requesting to be closed, and a legal description of the applicant's lands.
 - ii. The Letter shall also contain reasons requesting the closure of the road allowance.
 - iii. A map of the proposed road allowance to be stopped up and closed, including the identification of adjacent lands, including the location of buildings.

2. COMMITTEE OF THE WHOLE ACCEPTANCE OR REJECTION OF APPLICATION

- a. If the Committee of the Whole wishes to proceed with the closing and sale of the municipal road allowance;
 - i. A resolution shall be prepared declaring the land surplus and available for sale;
 - ii. The Township will also circulate to all departments for comments.
- b. If the recommendation is to reject the application, the applicant(s) will be notified of the decision and the process stops.

3. CIRCULATION TO ADJACENT LANDOWNERS

- a. The Township will conduct a detailed search to ascertain the proper names and addresses of all owners of lands abutting the portion of the unopened road allowance proposed to be closed and sold.
- b. Notice shall be circulated to all owners of lands abutting the portion of the unopened road allowance proposed to be closed and sold to all required agencies, the property owner and/or owner's agent(s), and any parties who have expressed written interest in receiving notice

- c. Adjacent landowners will be afforded a minimum of three (3) weeks to respond to the letter.
- d. Should there be no interest shown in the purchase of the portion of the unopened road allowance, the applicant(s) will be given the opportunity to purchase the portions of such land.

4. NOTICE TO PUBLIC

- a. Prior to selling any municipal road allowance the Township shall give notice to the public of the proposed closing and sale of the Township road allowance and hold a minimum of one public meeting.
- b. An advertisement shall be placed in at least one newspaper having general circulation within the local area for a one-week period advising the date, time and location of the public meeting.
- c. Copies will also be posted in the immediate vicinity of the portion of the unopened road allowance proposed to be closed and sold.
- d. The Notice shall include a brief description of the road allowance and a sketch as well as the date, time and location of the public meeting.
- e. After public consultation, a report will be submitted to Council at the next regular meeting for further consideration with respect to final decision to close road and at this time a Council resolution is required to proceed to next steps.

5. ROAD ALLOWANCE APPRAISAL

- a. The Township is allowed obtain an appraisal of the fair market value of the unopened road allowance from a person/company certified by the Appraisal Institute of Canada.
- b. Should the applicant(s) decide to not proceed with the acquisition, the applicant(s) would be responsible for costs associated with advertising and appraisal.
- c. Council has the right to adjust any appraisal if extenuating circumstances become apparent.

6. REFERENCE PLAN (SURVEY) OF ROAD ALLOWANCE

- a. The applicant(s) shall obtain a reference plan (survey), prepared by an Ontario Land Surveyor, of the area proposed for closing and sale and submit such to the municipality prior to the commencing of any legal work concerning the road closing.

7. CLOSING AND SALE OF MUNICIPAL ROAD ALLOWANCE BY-LAW

- a. Once a reference plan has been submitted to the Township, the applicant(s) solicitor shall proceed with the preparation of the legal work concerning the road closing.
- b. The Closing and Sale of Municipal Road Allowance By-law will be brought to Council for formal approval.
- c. The transfer of the land will only be completed once the legal work is completed and after receipt of total payment, if applicable.

Staff has discussed with all 4 adjacent neighbours and they have all signed a documents saying they were notified, and that they are not interested in purchasing the said lands.

Alternatives:

1. The Council of the Township of North Glengarry wishes to proceed with the Stopping up, Closing and Selling of a portion of the Road Allowance of Alexander Street East also known as PIN 67103-0165 & a landlocked parcel of land also known as PIN 67103-0166 within the Village of Maxville.
2. The Council of the Township of North Glengarry does not support the Stopping up, Closing and Selling and rejects the proposal.

Financial Implications:

No financial implication. All costs (survey costs, legal fees, etc.) are borne by the applicant and/or to those persons whom the lands are to be sold.

Attachments & Relevant Legislation:

- By-law No. 42-2021

Others consulted:

Sarah Huskinson, CAO/Clerk

Reviewed and Approved by:
Sarah Huskinson, CAO/Clerk