



COUNCIL RESOLUTION

Moved By: Loandre

DATE: January 23, 2019

Seconded By: Chantal

Resolution No. 19-042

Whereas that By-Law No. 2019-08, being a By-law to Deem Lots not to be Lots in a Plan of Subdivision as per Section 50 (4) of the Planning Act, R.S.O. 1990, be adopted.

| | | |
|---|---|---|
| <div style="text-align: center; margin-bottom: 5px;">✓</div> <hr style="border: 0.5px solid black;"/> <p>Carried</p> | <hr style="border: 0.5px solid black;"/> <p>Defeated</p> | <hr style="border: 0.5px solid black;"/> <p>Deferred</p> |
|---|---|---|

| RECORDED VOTE: | YES | NO | |
|------------------------------------|-------|-------|--|
| Councillor Chantal Croft | _____ | _____ | |
| Councillor Hermyle Langlois | _____ | _____ | |
| Councillor Léandre Moore | _____ | _____ | |
| Councillor Hélène Perth | _____ | _____ | |
| Mayor Beverly Nantel | _____ | _____ | |

Declaration of Pecuniary Interest and General Nature Thereof:



By-Law No. 2019-08


Being a By-law to Deem Lots not to be Lots in a Plan of Subdivision as per Section 50 (4) of the Planning Act, R.S.O. 1990.

WHEREAS the Council of the Corporation of the Township of Dubreuilville deems it necessary to pass a deeming by-law detailing the process from application to certification with regards to lot consolidation;

BE IT THEREFORE RESOLVED THAT the Council of the Corporation of the Township of Dubreuilville enacts as follows:

1. That the Mayor and the CAO-Clerk be and are hereby authorized to deem lots not to be lots in a plan of subdivision as per Section 50 (4) of the *Planning Act, R.S.O. 1990* and adopt a deeming by-law detailing the appropriate process for lot consolidation per Schedule "I" attached.
2. That this deeming by-law shall repeal any past by-laws that pertain to this issue.
3. That by-law 2016-22 be and is hereby repealed.

READ a first, second and third time and be finally passed this 23 day of January 2019.


MAYOR


CAO-CLERK

Schedule "I" to by-law no. 2019-08

THE DEEMING BY-LAW PROCESS: FROM APPLICATION TO CERTIFICATION

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Deeming By-Law Process

A By-Law to Deem Lots not to be Lots in a Plan of Subdivision (Section 50 (4) of the *Planning Act, R.S.O. 1990*)

Introduction

The Council of a local municipality may by By-Law deem any plan of subdivision, or part thereof that has been registered for eight years or more not to be a registered plan of subdivision.

The result of passing such a By-Law is that a property owner cannot sell/build on individual lots without either obtaining a severance or a decision by Council to repeal the initial Deeming By-Law.

Passing a Deeming By-Law does not eradicate the underlying plan of subdivision, but rather “freezes” the lots from being sold individually. At some point in the future, Council could decide to repeal the Deeming By-Law and allow for the lots in a plan of subdivision to be sold individually again.

There are certain circumstances the municipality may wish to impose a Deeming By-Law on undeveloped lots in a plan of subdivision (e.g. when there are servicing capacity constraints that make it difficult to service lots in an old plan of subdivision). There may be circumstances when individuals own two or more lots in a plan of subdivision request to have their lots deemed (e.g. an individual owns two small/undersized lots in a recreational area that were created by a plan of subdivision – they can treat the two lots as one building lot and build over the lot line if the lots are deemed not to be lots in a plan of subdivision. When lots are deemed not to be lots in a plan of subdivision and are in identical ownership the lots merge and can be treated as one building lot.)

The Deeming By-Law is passed pursuant to Section 50 (4) of the *Planning Act* and is subject to the provisions of Section 50 (26) through to 50 (30).

Process

1. If the process is being initiated by a landowner, the applicant shall complete the relevant application form and submit the appropriate fee to the Township, which shall be a minimum of \$700.00 per Parcel Identification Number (“PIN”) being included in the Deeming Application, plus disbursements, plus HST. If requested by the applicant, the Township can provide the Applicant with a quote of the estimated total fee to be paid prior to accepting the application.
 - a. Prior to submitting an application to the Planning Department, a landowner should consult with the Planning Department to determine whether a Deeming By-Law is the appropriate mechanism to use.
 - b. Once it is determined to be the appropriate mechanism, the completed application form, together with the appropriate fees and the plan must be submitted to the Planning Department.
 - c. Once an application is submitted, the Clerk will review it for completeness and will circulate it to the appropriate departments for review. Once comments are received and if the application complies with the Township’s policies, the Planning Department advises the Township Solicitor and a By-Law is presented to Council. After Council approves the Deeming By-Law, it is registered on title at the cost of the applicant (\$200.00), which cost shall be in addition to the deeming application fees stated above and payable by the applicant to the municipality.

- d. If the application does not comply with Township policies, then a report is prepared for consideration of Council.
2. If the process is being initiated by the Township, no fee or application form is required.
3. The ownership and legal description of the subject properties shall be reviewed to ensure the lots are registered in identical ownership and the lots to be deemed are complete lots in a plan of subdivision that has been registered for a period longer than eight years.

By-Law

1. Regardless as to who makes the application for the deeming by-law, the Township will draft the By-Law to deem the lots not to be lots in a registered plan of subdivision.
2. Notification of Landowner(s) [Section 50 (29)]: No notice or public meeting is required before Council passes a Deeming By-Law, but Council shall give notice of the passing of the By-Law within thirty days to each person appearing on the last revised assessment roll to be the owner of land to which the By-Law applies.

Following the passing of the By-Law:

1. Send notice and a copy of the By-Law to the property owners of the subject land within 30 days of the By-Law passing and instruct them that they have 20 days from the date of mailing to make ANY representations to Council respecting the By-Law.
2. When 20 days have expired, send the owners(s) three (3) certified copies of the By-Law and the Municipality will have the By-Law registered on title at the Land Registry Office and a copy of the registered By-Law be sent to the owner.
3. Send a certified copy or duplicate of the By-Law to:
 - a. The Chief Building Official
 - b. Ministry of Municipal Affairs and Housing.
 - c. The Clerk
 - d. The Planning Department
 - e. The Municipal Property Assessment Corporation (MPAC)

Hearing by Council [Section 50 (30)]:

1. Council shall hear in person or by an agent any person to whom a notice of passing about a Deeming By-Law was sent, who within twenty days of the mailing of the notice gives notice to the Clerk of the Township that the person desires to make representations respecting the amendment or repeal of the By-Law.

Date By-Law is Effective [Section 50 (27) (28)]:

1. The Deeming By-Law is not effective until the By-Law has been registered on title at the Land Registry Office.

DEEMING BY-LAW PROCESS APPLICATION

Please Print

1. Name of Owner/Applicant: _____

Telephone number: _____ Fax number: _____

Address: _____

2. Name of Solicitor: _____

Telephone number: _____ Fax number: _____

Address: _____

3. Name of Agent: _____

Telephone number: _____ Fax number: _____

Address: _____

4. Ontario Land Surveyor: _____

Telephone number: _____ Fax number: _____

Address: _____

5. Engineer: _____

Telephone number: _____ Fax number: _____

Address: _____

- (ENGINEER: Under separate letter provide a brief description of existing and/or proposed Municipal services, confirming that all service utility connections are in place to suit the new lot lines.)

6. Site Location Address: _____

Legal description: _____

Registered Plan No.: _____

Date Plan of Subdivision was Registered (must be registered for 8 years or more): _____

Reference Plan: _____

7. Proposal: (Provide a brief description, including land use) _____

8. Number of Lots or Part of Lots to be merged: _____

9. Building Permits: If you have applied for a building permit(s).
Please list any Building Permit numbers:

OWNER'S AUTHORIZATION & DECLARATION

AUTHORIZATION

I/We hereby authorize _____

to act on my/our behalf in the matter of this application.

Signature of Owner

Signature of Owner

- (The declaration below must be signed in the presence of a commissioner for taking affidavits. This may be done when presenting your application at the Municipal Office.)

Registered by Instrument No. _____

BY-LAW NO. _____

A BY-LAW TO DEEM A PART OF A SUBDIVISION NOT TO BE REGISTERED – LOTS ___ TO ___ INCLUSIVE, REGISTERED PLAN NO. _____

PASSED: _____

WHEREAS Section 50 (4) of the *Planning Act, R.S.O. 1990*, Chapter 13, as amended, provides that the Council of a municipality may, by By-Law, designate any plan of subdivision, or part thereof, that has been registered for eight (8) years or more, as deemed not to be a Registered Plan of Subdivision for the subdivision control provisions of Section 50 (3) of the *Act*;

AND WHEREAS Registered Plan _____ was registered in the Land Registry Office for the Registry Division of Dubreuilville on _____, and an application has been submitted by _____ with respect to this plan requesting a part of the plan of subdivision _____ be deemed not to be a registered plan of subdivision;

AND WHEREAS the Council of the Corporation of the Township of Dubreuilville deems it to be in the best interests of the Corporation and its residents and the proper development of the lands in Registered Plan _____ described below to be so designated;

NOW THEREFORE the Council of the Corporation of the Township of Dubreuilville hereby enacts as follows:

1. That a By-Law be passed to deem Lots _____ of the Registered Plan of Subdivision _____, more particularly described in Schedule 'A' to the By-Law, not to be a Registered Plan of Subdivision for the purposes of Subsection 3 of Section 50 of the *Planning Act*.
2. That the Clerk of the Township shall lodge a certified copy of the Deeming by-Law in the office of the Ministry of Municipal Affairs and Housing.
3. That the Clerk of the Township shall register, at the cost of the applicant, a certified copy of the Deeming By-Law against the title to the lands described in Schedule 'A' and this By-Law shall not take effect until this requirement has been complied with.
4. That notice of the passing of the Deeming By-Law shall be given within thirty (30) days of the date of passing to each person appearing on the last revised assessment roll to be the owner of any of the land described in Schedule 'A', which Notice shall be sent to the last known address of each such person.
5. This By-law shall come into force and take effect when registered in the Land Registry Office by the Clerk of the Township.

GIVEN ALL THREE READINGS AND PASSED _____

Clerk

Mayor

SCHEDULE "A"

THIS WOULD BE A MAP SETTING OUT THE PROPERTIES AFFECTED BY THE DEEMING BY-LAW

KEY MAP

**THIS WOULD BE A LARGER MAP NOTING THE AREA IN QUESTION (FOR EXAMPLE A PIN MAP) –
THE TOWNSHIP MAY HAVE A MORE APPROPRIATE MAP IT WANTS TO REFERENCE**

NOTICE OF PASSING OF A BY-LAW TO DEEM A PART OF A SUBDIVISION NOT TO BE REGISTERED
BY THE CORPORATION OF THE TOWNSHIP OF DUBREUILVILLE

The Council of the Corporation of the TOWNSHIP OF DUBREUILVILLE passed By-Law No. _____,
"A BY-LAW TO DEEM A PART OF A SUBDIVISION NOT TO BE REGISTERED - Lots _____,
Registered Plan No. _____ on _____, 20____ pursuant to Section 50 (4) of the
Planning Act, R.S.O. 1990, as amended.

The Council may hear, pursuant to Section 50 (30) of the Planning Act, in person or by an agent of any person to whom notice was sent under subsection (29), who within 20 days of the mailing of the notice gives notice to the Clerk of the Township that the person desires to make representations respecting the amendment or repeal of the By-Law.

AN EXPLANATION of the purpose and effect of the By-law, describing the lands to which the By-law applies, and a Key Map showing the location of the lands to which the By-law applies are attached.

DATED at the Township of Dubreuilville

This _____, 20_____

Clerk

NOTE: The Last Day for Filing Objections will be _____ (20 days after the above Date)

The Objection Must Be Received By This Date In Order To Be Valid.

Any appeal submitted to the Township for referral to the Ontario Municipal Board must include:

1. The objection to the By-Law and the reasons in support of the objection, by completing the proper OMB form.
2. The name and address of the appellant.
3. The fee payment in the amount of \$125.00 payable to the Minister of Finance, Province of Ontario.

EXPLANATORY NOTE CONCERNING BY-LAW NO. _____

AREA AFFECTED: The area affected by By-Law No. _____ is a _____ acre site located on _____.

PURPOSE: The purpose of By-Law No. _____ is to deem a portion of Registered Plan of Subdivision _____ not to be a subdivision. Specifically, the proposal is to deem Lots _____ as proposed to be stopped up, closed and conveyed to the owner. This will create one lot _____.

EFFECT: The effect of By-Law _____ is to create one residential lot with direct access to Highway _____.

This will facilitate the re-subdivision of the subject lands into _____, through a consent application, with direct access to _____.

The existing zoning will remain.

The proposal is in conformity with the Official Plan and the existing Zoning By-Law.

KEY MAP: See attached Key Map

PUBLIC NOTICE IN THE NEWSPAPER

Corporation of the Township of Dubreuilville

PUBLIC NOTICE

TAKE NOTICE that the Council of the Township of Dubreuilville intends to _____, Lots _____ to _____, Registered Plan of Subdivision _____;

THAT THIS NOTICE is given in accordance with the *Municipal Act, 2001*, as amended and Township of Dubreuilville Resolution No. 08-232 "A Resolution to Provide Notice";

Council shall hear any person who claims that he/she will be adversely affected by these By-Laws and who applies to be heard on or before _____, 20_____.

Any questions concerning the above notice may be addressed by contacting the Clerk of the Corporation of the Township of Dubreuilville.

DATED at the Corporation of the Township of Dubreuilville

This _____, 20_____

Clerk

THE REGISTERED LAND TITLES DOCUMENTS WOULD BE ATTACHED HERETO

RE: BY-LAW NO. _____

A BY-LAW TO DEEM A PART OF A SUBDIVISION NOT TO BE REGISTERED - LOTS ____ TO ____
INCLUSIVE, REGISTERED PLAN NO. _____

EFFECTIVE DATE: _____

DECLARATION

I, _____, Clerk, hereby certify that the notice for BY-LAW NO. _____ passed by the Council of the Corporation of the Township of Dubreuilville on _____ was given in the manner and form and to the persons prescribed by Ontario Regulation 199/96, made by the Lieutenant Governor-in-Council under subsections 17 and 34 of the *Planning Act*. I also certify that the 20 day appeal period expired on the _____ (20 days after the Notice was sent on Page 11) and to this date no notice of appeal setting out an objection to the By-Law has been filed in the Office of the Clerk.

DATED at the Corporation of the Township of Dubreuilville

This _____, 20_____

Clerk