



Staff Report

Planning & Development Services – Planning Division

Report To: Committee of the Whole Meeting
Meeting Date: January 18, 2022
Report Number: PDS.22.010
Title: P3021 Follow-Up Report – Request to Purchase Wellington Street North
Prepared by: Travis Sandberg, Planner II

A. Recommendations

THAT Council receive Staff Report PDS.22.010, entitled “P3021 Follow-Up Report – Request to Purchase Wellington Street North” for information purposes.

AND THAT Council direct Staff to continue to work towards the disposal of the subject lands in accordance POL.COR.07.02.

B. Overview

This report is intended to provide additional background information to Council following a deputation from Helen Kimble regarding the request to purchase the unopened Wellington Street North Road allowance. The information provided in this report is further to Staff Report PDS.21.105 “Consideration of Sale of Town Lands – Wellington Street Road Allowance (P3021)”, as presented to Committee of the Whole on September 21, 2021.

C. Background

The Owner of 151 Bay Street East (Helen Kimble) submitted a request to the Town to potentially purchase an unopened portion of the Wellington Street North Road allowance. Planning Staff provided a Staff Report to Committee of the Whole on September 21, 2021, outlining two potential options for Council to consider in the disposition of the subject lands. These options included:

Option A: Disposing the Subject Lands per the June 2021 request made by Helen Kimble being:

1. Helen Kimble purchases the Subject Lands and it becomes part of her lot, or
2. Helen Kimble purchases half of the Subject Lands and the other adjacent property owner purchases the other half.

Option B: Disposing the Subject Lands as an infill lot for residential purposes.

By Resolution dated October 4, 2021, Council directed staff to proceed with all necessary processes required to consider disposal of a portion of the unopened road allowance in accordance with the Town's Sale and Disposal of Land Policy (POL.COR.07.02). It is noted that the public consultation requirements of POL.COR.07.02. have been completed. Based on the public consultation process Town staff were contacted by three (3) other persons (besides Ms. Kimble) that expressed interest in this land.

In the Deputation on November 23, 2021, it was suggested by Ms. Kimble that a previous site-specific amendment to the Zoning By-law may have afforded access rights over the unopened portion of Wellington Street North to the property located at 151 Bay Street East. As such, the sale of the lands to any another party would effectively eliminate access to the garage located on her residential property.

In response to the deputation, Council directed staff to provide a follow-up report on the history of this property, whether there are any legal access rights registered on-title of the unopened road allowance, and to provide an overview of the purpose and effect of the previous site-specific Zoning By-law Amendment as approved by the then Council. The purpose of this report is limited to the background requested by Council.

D. Analysis

Amending By-law 2004-20

Zoning By-law 2004-20 was passed by the then Council on April 13, 2004, and had the effect of applying site-specific zoning provisions to the property located at 151 Bay Street East, now owned by Ms. Kimble (see Attachment 1). As outlined in the certified copy of amending Zoning By-law 2004-20, this by-law was enacted to amend Section 6.1(vi)(c) to the former Town of Thornbury Zoning By-law 10-77 to permit the construction of a maximum 54 square metre detached garage a minimum distance of 2.0m from the easterly side lot line.

It is noted that the former Town of Thornbury Zoning By-law 10-77 required a 7.5m side yard setback abutting a public street for all detached accessory structures located on residentially zoned properties. Zoning By-law 10-77 defined a Public Street as:

***"STREET, PUBLIC"** means a common and public highway as defined under The Municipal Act being chapter 302 of the Revised Statutes of Ontario, 1980, Section 1, Paragraph 9 and Section 257".*

An unopened road allowance (in this case Wellington Street North) was considered to be a "public street" for the purposes of the former Thornbury Zoning By-law 10-77.

As background for Council's information, it is noted that according to Appendix Map 'G' entitled "Roads Plan" of the 2004 Town Official Plan, this portion of Wellington Street North did not appear to have any road classification applied. The absence of a road classification in 2004 would suggest that this portion of Wellington Street North was simply considered to be an unopened road allowance. It remains an unopened road allowance for the purposes of the current 2016 Official Plan.

In summary the 2004 zoning application was a request by the applicant (Ms. Kimble) to build a detached garage with a 2.0m setback to an abutting “public street” whereas the Zoning By-law required a 7.5m setback. The amending Zoning By-law was enacted, and once in full force, the applicant built the detached garage taking advantage of the reduced side yard setback. The structure was built with an overhead door facing the Wellington Street North road allowance for convenient access.

Staff have confirmed through a title search that there are currently no registered easements for any party, including Ms. Kimble, over the unopened portion of Wellington Street North. Based on the information available, including the Council minutes from the Public Meeting and submitted Zoning By-law Amendment application form, there is no suggestion that the applicant was being granted any access rights over the Town’s unopened road allowance as part of the consideration of the 2004 Zoning By-law Amendment application. Therefore, Staff have not uncovered any documentation that suggests the Town’s approval of the zoning bylaw amendment in 2004 included rights to access the detached garage via the unopened road allowance. The fact that a garage door was placed on side of the garage facing the unopened road allowance increased the convenient useability of the garage for as long as the Town allowed the ad hoc use of the unopened road allowance as access.

Other Considerations

In the event that Council should decide to transfer ownership of the Wellington Street North road allowance to Ms. Kimble, it is recommended that the terms of the sale include the requirement that the road allowance be legally merged on title with 151 Bay Street East. This will ensure that going forward this road allowance is not a separately conveyable lot unless severed through the *Planning Act* processes.

E. Strategic Priorities

2. Organizational Excellence

We will continually seek out ways to improve the internal organization of Town Staff and the management of Town assets.

3. Community

We will protect and enhance the community feel and the character of the Town, while ensuring the responsible use of resources and restoration of nature.

F. 4. Environmental Impacts

No adverse environmental impacts are anticipated as a result of this report.

G. Financial Impacts

No adverse financial impacts are anticipated as a direct result of this report. As per Town Policy, proceeds of the sale of this property would be directed to the Town's Community Improvement Plan (CIP) Reserve.

H. In Consultation With

Trevor Houghton, Manager of Community Planning

I. Public Engagement

The topic of this Staff Report has not been the subject of a Public Meeting and/or a Public Information Centre as neither a Public Meeting nor a Public Information Centre are required. However, any comments regarding this report should be submitted to Travis Sandberg, planning@thebluemountains.ca

J. Attached

1. Amending Zoning By-law 2004-30

Respectfully submitted,

Travis Sandberg, Planner II

Trevor Houghton, MCIP RPP
Manager of Community Planning

Nathan Westendorp, MCIP RPP
Director of Planning and Development Services

For more information, please contact:

Travis Sandberg, Planner II
Planning@thebluemountains.ca
519-599-3131 extension 283

Report Approval Details

Document Title:	PDS.22.010 P3021 Follow-Up Report - Request to Purchase Wellington Street North.docx
Attachments:	- 2004-20 ZBA MacKenzie Walter Lot 46 Plan 410 No. 16-125.PDF
Final Approval Date:	Jan 6, 2022

This report and all of its attachments were approved and signed as outlined below:

Trevor Houghton - Jan 6, 2022 - 2:50 PM

Nathan Westendorp - Jan 6, 2022 - 4:48 PM

THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

BY-LAW NO. 2004-20

Being a By-law to amend Zoning By-law No. 10-77
which may be cited as "The Zoning By-law of the
Town of Thornbury".

WHEREAS the Council of the Corporation of the Town of The Blue Mountains deems it necessary
in the public interest to pass a by-law to amend By-law No. 10-77;

AND WHEREAS pursuant to the provisions of Section 34 of the Planning Act, the by-law may be
amended by Council of the Municipality;


NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF THE BLUE
MOUNTAINS ENACTS AS FOLLOWS:

1. Notwithstanding the provisions of Section 6.1(vi)(c) to the Zoning By-law of the Town of
Thornbury, being By-law No. 10-77, a maximum 54 square metre detached garage may be
located a minimum distance of 2 metres from the easterly side lot line, for those lands lying and
being in the Town of The Blue Mountains, comprised of Lot 46, Plan 410 (151 Bay Street) as
indicated in cross-hatching on the attached key map Schedule "A-1".
2. Schedule "A-1" is hereby declared to form part of this By-law.

READ A FIRST TIME THIS 13th DAY OF April, 2004.

READ A SECOND TIME THIS 13th DAY OF April, 2004.

READ A THIRD TIME AND FINALLY PASSED THIS 13th DAY OF April, 2004.


Ellen Anderson-Noel, Mayor


Stephen Keast, Clerk

I hereby certify that the foregoing is a true copy of By-law No. 2004-20 as enacted by the
Council of the Corporation of the Town of The Blue Mountains on the 13th day of
April, 2004.

DATED at The Blue Mountains

this 14th day of

April, 2004.

Signed: 
Stephen Keast, Clerk

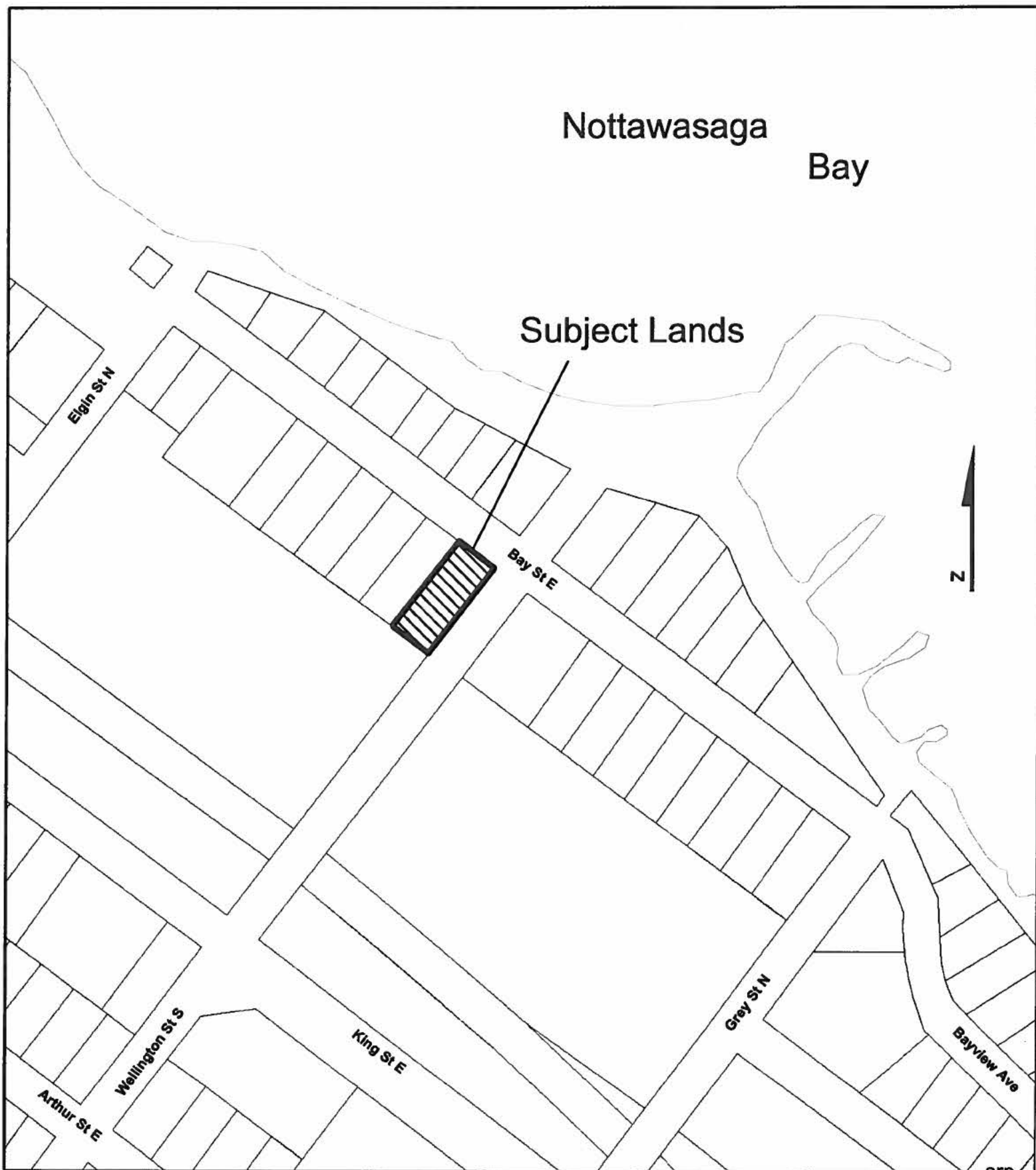
KEY MAP SCHEDULE A-1

BY-LAW No. 2004-20

TOWN OF THE BLUE MOUNTAINS



AREA AFFECTED BY THIS AMENDMENT



1:2,500

srp

NOTICE OF THE PASSING OF A ZONING BY-LAW
TOWN OF THE BLUE MOUNTAINS

TAKE NOTICE THAT the Council of the Town of The Blue Mountains passed By-law No. 2004-20 on the 13th day of April, 2004 under Section 34 of the Planning Act.

AND TAKE NOTICE that any person or agency may appeal to the Ontario Municipal Board in respect of the by-law by filing with the Clerk of the Town of The Blue Mountains not later than the 4th day of May, 2004 a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, together with the required \$125 fee made payable to the Minister of Finance.

AND TAKE NOTICE that only individuals, corporations and public bodies may appeal a zoning by-law to the Ontario Municipal Board. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or the group on its behalf.

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 (or, alternatively, an explanation as to why a key map is not provided) are attached. The complete by-law is enclosed for inspection.

DATED at the Town of The Blue Mountains, this 14th day of April, 2004.

Stephen Keast
Clerk
Town of The Blue Mountains
P.O. Box 310
26 Bridge Street
THORNBURY, Ontario
NOH 2P0 (519) 599-3131

PURPOSE AND EFFECT OF THIS BY-LAW

The purpose of this By-law is to satisfy a request by the applicant to construct a detached garage that will encroach into the required 7.5 metre side yard setback abutting a public street. (Wellington Street)

The effect of this By-law is to permit a maximum 54 square metre detached private garage to be located a minimum distance of 2 metres from the easterly side lot line.