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# Request for Decision



**To:** Mayor and Council  
**Meeting Date:** July 16, 2018  
**From:** Peter de Verteuil, CAO  
**Reviewed By:**  
**Subject:** Road Closure and Removal of Highway Dedication Bylaw No. 3184, 2018 – a bylaw to close a portion of the municipal road EJ Hughes place

**File No:**  
**Submission Date:** July 11, 2018

## RECOMMENDATION:

**That Council give first reading to Road Closure and Removal of Highway Dedication Bylaw No. 3184, 2018 – A bylaw to close a portion of EJ Hughes Place;**

**And That Staff be directed to issue statutory notices of road closure and removal of highway dedication in connection with Road Closure and Removal of Highway Dedication Bylaw No. 3184, 2018.**

## BACKGROUND:

The purpose of this report is to introduce a road closure bylaw to close a portion of municipal road allowance on EJ Hughes Place, to the north of 262 EJ Hughes Place. The road closure bylaw is a required procedural step to enable the raising of title for the closed road, thereby allowing the consolidation of that portion of the road with the 262 EJ Hughes Place parcel.

The new owners of 262 EJ Hughes Place have demolished the old building and are in the process of applying for development permit, with variances. The owner is also the owner of Sherwood House and approximately 50% owner of Wedgwood House, both of which are on the north side of EJ Hughes place (across the street).

It is believed that the development and connectivity to the neighbouring properties will be improved by incorporating a portion of the existing EJ Hughes Place roadway into the development. This end of the roadway currently only serves 262 EJ Hughes Place and the two above mentioned properties, and is wider than many roads in the City.

On July 3, 2018 Council authorized moving forward with closing a portion of EJ Hughes Place, in order to sell the closed road to the adjacent 262 EJ Hughes Place property owner at the appraised value of \$270,000, plus a contribution of \$200,000 to the City's parking reserve for the replacement of the parking stalls currently available for public use. The proposed sale of the road would be subject to the required road closure process, and subject to sufficient Statutory Right of Ways (SRW) being registered on the property.

The owner of 262 EJ Hughes Place has agreed in principle, and agreements are being drafted to formalize the details, which will be brought to Council for approval.

Roadways can only be closed by bylaw, thus requiring at least two council meetings. In addition, road closure bylaws have specific notification requirements.

Attached is the draft Road Closure and Removal of Highway Dedication Bylaw No. 3184, 2018, which includes a diagram of the road closure area and proposed SRW area.

An appraisal of the roadway, with consideration for the impact of the SRW on the value, established the value of the roadway at \$270,000.

### **ANALYSIS:**

The sale of the roadway is being considered separately from any future development on the combined parcel. The land sale could be made for this development, or another development could be proposed for the site in the future. The closure and sale of the road needs to be completed before Council and the Advisory Design Panel (ADP) review any development applications for the site, otherwise the City would be considered a part owner of the land, complicating the review process.

The City will obtain a SRW for a portion of the existing road, securing the underground infrastructure, Hydro, Telus, and access rights for vehicles and pedestrians to the two neighbouring properties.

Several development concepts have been proposed to date for the site, with varying heights and scopes. Staff have only just begun the review process and do not have a final application as of yet. In addition, the development application process will require ADP review, and Council consideration. As the overall layout and form and character of the development will hinge upon the land area available, it is necessary to proceed with the road closure, before the developer can commit to a design proposal.

The cost to relocate the sewer and storm mains into the SRW area are approximately \$120,000. However, this amount could be lower as it includes surface restoration and paving, which may possibly be covered by the development's landscaping and site works. The age of the storm mains is 60 years, indicating that the time for replacement is not too far off, and this will simply move up the timeline, with the possible benefit of surface restoration being covered by the development.

Staff have reviewed the proposed SRW and have confirmed that a reduced road width of 9.5 metres will meet Building Code standards for Fire Department access to Sherwood House and Wedgwood House.

Additionally, the street currently accommodates approximately 25 parking stalls as the road is wide and can accommodate 90 degree parking on one side. The street currently serves as overflow parking for the Courthouse and for Sherwood House and Wedgwood House, which are under supplied for parking on their own sites.

The proposed road closure area is shown in Schedule "A" of the draft road closure bylaw in attached Appendix A.

### **Road Closure Process**

In accordance with section 40 of the *Community Charter*, Council must provide notice of its intention to close a portion of highway. Council must then provide an opportunity for persons who consider they are affected by the bylaw to make representations to Council.

The road closure process is summarized below:

- (a) Council gives first reading to the proposed road closure bylaw.
- (b) Staff publish statutory notices for the road closure and removal of highway dedication per section 94 of the *Community Charter* and provide an opportunity for persons who consider they

- are affected by the proposed bylaw to make representations to Council.
- (c) In addition to statutory notice, individual notification will be provided to properties within 60 metres of the roadway, and specifically to Cowichan Tribes administration.
  - (d) Pursuant to section 41 (4) of the *Community Charter*, the operator of a utility affected by the closure of a highway may require the municipality to provide reasonable accommodation of the utility's affected transmission or distribution facilities or works on agreed terms. The City will contact the utility companies and obtain their agreement that the utilities will be accommodated on the area of road to be closed through the issuance of a SRW.
  - (e) After the opportunity for making representations has been provided, Council considers giving second and third reading to the proposed road closure bylaw.
  - (f) Pursuant to section 41 (3) of the *Community Charter*, as the proposed closed road is not within 800 metres of an arterial highway, the City is not required to refer the proposed bylaw to the Ministry of Transportation and Infrastructure (MOTI) for approval.
  - (g) As there is no referral to MOTI, Council can consider adopting the road closure bylaw.
  - (h) To complete the process, the City attends to registration of a certified copy of the road closure bylaw at the Land Title Office.

### IMPLICATIONS:

- Financial:** The purchaser will assume the legal costs for registrations.
- Responsibility for ongoing maintenance of the road and access to the neighbouring properties would shift to the property owner.
- \$270,000 would be placed in the Land Sale Reserve, for future capital expenditures, and \$200,000 would be placed in the Parking Reserve Fund and allocated to replacing the 25 parking spaces.
- Policy/Legislation:** Sections 40, 41 and 94 of the *Community Charter* provide for the municipal authority and notification process for highway closures.
- Strategic Priority:** N/A
- Sustainability:** N/A
- Communication:**
- a) The Notice of Road Closure and Removal of Highway Dedication will be published in two newspaper editions.
  - b) The Notice will be posted on the public notice boards at City Hall and will also be distributed to properties homes in the area surrounding the closed road.
  - c) Cowichan Tribes will be specifically notified due to the roadway being adjacent to IR#1.
- Staffing Implications:** Staff will be meeting with the developer regularly regarding the development of the site, regardless off the land purchase. However, additional staff time will be required to deal with drafting agreements, consultation and communication, and additional meetings with the developer.

### ALTERNATE RECOMMENDATION:

- 1) **That Council request further information on Road Closure and Removal of Highway Dedication Bylaw No. 3184, 2018** – a bylaw to close a portion of the municipal road EJ Hughes place;
- or
- 2) **That Council not proceed with Road Closure and Removal of Highway Dedication Bylaw No. 3184, 2018** – a bylaw to close a portion of the municipal road EJ Hughes place.

**APPENDICES:**

Appendix A – **Road Closure and Removal of Highway Dedication Bylaw No. 3184, 2018** – a bylaw to close a portion of the municipal road EJ Hughes place