

Staff Report

Report To: City Council
Report From: Pamela Coulter, Director of Community Services
Meeting Date: May 12, 2025
Report Code: CS-25-046
Subject: Request by Barry's Construction to Purchase a Portion of the 21st Street East Unopened Road, West of 9th Avenue East

Recommendations:

THAT in consideration of Staff Report CS-25-046 respecting a request by Barry's Construction & Insulation to purchase a portion of the unopened 21st Street East road allowance, west of 9th Avenue East, City Council directs staff to:

1. Issue a Notice of Intention to Declare the Lands Surplus, with the method of sale being direct negotiation;
2. Issue a Notice to Stop Up and Close a portion of 21st Street East, west of 9th Avenue East; and
3. Undertake the other next steps as outlined in the report.

Highlights:

- Barry's Construction & Insulation is proposing to construct a 4-storey, 35-unit residential apartment building on lands in addition to an existing 3-storey, 23-unit building.
- The developer has requested that the City sell a portion of the unopened 21st Street East road allowance to facilitate additional parking and access/fire routes.

- The unopened 21st Street right-of-way contains a 1.5m pedestrian path, storm, and sanitary sewers. Only the sanitary sewer lies within the area considered for sale.
- The land is designated Residential, in the Official Plan which permits various forms of residential dwellings and zoned for medium to high-density residential uses (R5).
- No major objections were noted by staff, provided access for firefighting is maintained and a 6m easement is respected.
- Camera inspection of the sanitary sewer is recommended pre and post development as well as an easement for access to the sanitary sewer.

Strategic Plan Alignment:

[Strategic Plan](#) Priority: A City that Grows.

Climate and Environmental Implications:

This supports the objectives of the City's Corporate Climate Change Adaptation Plan by strengthening the resiliency of City infrastructure or services.

Previous Report/Authority:

[Disposition of Land By-law No. 2012-195](#)

Closed Report CS-25-035 Request by Barry's Construction to Purchase Lands – 21st Street East (west of 9th Avenue East)

Background:

The first step in most Planning Act applications is pre-consultation. Barry's Construction & Insulation has submitted a pre-consultation for a new 4-storey, 35-unit residential apartment building on land on the west side of 9th Avenue East, south of 21st Street East.

The subject property has an existing 3-storey 23-unit residential apartment building (2090 9th Avenue East) that is located facing 9th Avenue that would remain. Parking for the existing apartment is located on the west or rear of the existing building. There is one existing access to 9th Avenue East.

Correspondence (Attachment 1) requests that the City sell a portion of the unopened 21st Street East road allowance to the developer. This land would be used to facilitate additional parking to support this infill project and provide access and a fire route in this area. Attachment 2 illustrates the proposed new building, parking, access/egress, and fire route.

There is existing municipal infrastructure in the unopened 21st Street right-of-way. In the north portion of the 20 m right-of-way, there is a 1.5 m wide asphalt pedestrian connection that joins the pedestrian path/sidewalk on 9th Avenue East with the residential area to the west. An underground (1200 mm) storm sewer is located along the northern portion of the unopened road allowance, and a 450 mm sanitary sewer is located in the mid portion of the road.

The pedestrian path and the storm sewer are outside of the area subject to potential sale. The sanitary sewer is within the area subject to the request.

The surrounding land uses include a mix of medium and higher-density residential, including single detached, semi-detached, townhomes, and apartments. Bayfield Landing is immediately north, and a street-fronting townhouse development is located to the south.

The pre-consultation on the proposed residential development noted that the proposal does require additional land as the development would not otherwise achieve the minimum parking requirements, and it is not in an area where municipal parking can be leveraged.

Analysis:

The City has a by-law that governs the sale or disposition of lands by the City.

This request to purchase City lands was circulated for comment to the City's Public Works & Engineering Divisions, Parks & Open Space, Building, Planning & Heritage and Clerks Divisions. Council considered a closed report on April 14, 2025 and provided direction to bring forward an open report.

Official Plan Designation

The lands are designated Residential (Schedule A) in the City's Official Plan. Lands designated Residential are intended primarily for Residential use and may include single detached, semi-detached, various forms of townhouse,

and apartment buildings. Residential uses are permitted at low, medium and high density.

Schedule C, the Transportation Schedule of the Official Plan, does not contemplate a future road west of 9th Avenue East in the area of the lands subject to this request.

Zoning (Bylaw 2010-078, as amended)

Lands are zoned R5. The Zoning By-law implements the direction of the Official Plan and permits single, semi, duplex, and townhouse dwellings as well as apartments. The site and building requirements of the Zoning By-law are generally achieved with the need for a small variance related to building height and Floor Space Index (FSI).

Comments received

Comments with no concern/objection were received from the Clerks Division.

The Building Division has noted that they have no objection to the proposal provided access is maintained (as proposed) for firefighting and access.

Public Works and Engineering comments indicate that they can support the sale of the lands provided there are provisions made for an easement (minimum 6 m in width) over the lands. The Engineering Services Division also recommends that the sanitary sewer have a camera inspection prior to the sale and following the completion of the development of the lands for parking. No buildings or structures would be permitted on the lands subject to the easement.

Staff support the request that will allow residential intensification on full services, maximizing the use of land and services with minimal impact on existing infrastructure.

There are several next steps relating to the potential sale that are outlined in the chart that follows:

Item	Action required
Give notice of intention to stop up and close a portion of the municipal right-of-way.	Requires 10 days notice on City website and in the newspaper.

Item	Action required
The portion of the right-of-way containing the pedestrian path and storm sewer will not be stopped up and closed.	
Give notice of intention to declare surplus and sell the lands.	The notice must include the method of sale which will be direct negotiation with an adjacent landowner. The method of sale is proposed as direct negotiation.
Obtain an appraisal for the lands	City to engage a realtor to complete Cost of Appraisal to be paid by the developer as a condition of the sale
Obtain survey of area to be sold	City to request survey. Sanitary easement will be done as part of the survey. Cost of survey to be paid by the developer as a condition of the sale.
<p>Open report 2</p> <p>Following the Notice of Intention to Declare Surplus and Notice of Intention to Stop up and Close, staff will prepare a report with:</p> <ul style="list-style-type: none"> - Feedback - Appraisal price. 	Provides an opportunity to consider feedback received on notice to declare lands surplus and stop up and close a portion of the road
<p>By-law required to stop up and close</p> <p>By-law required to declare surplus</p> <p>By-law required to authorize the Mayor and Clerk to execute all</p>	Council would consider the bylaws to stop up, close, and declare surplus as part of the second open report.

Item	Action required
documents relating to the land sale and easement.	
<p>Prepare Agreement of Purchase and Sale with conditions and terms satisfactory to the City, including but not limited to:</p> <ul style="list-style-type: none"> - 6 m easement for sanitary sewer in favour of the City; - camera inspection pre and post-development; - a 2-year timeline for site plan approval and building permit for the development proposed. - final sale amount plus city costs for legal and survey - any other conditions recommended by the City Solicitor. 	<p>Developer to prepare or City solicitor to prepare with costs paid by Developer</p> <p>If any of the terms require negotiation or direction, a second closed report to Council may be required.</p>

The sale of land to this developer does not presume or circumvent the City's standard development approvals process, which will be required for the proposed residential development.

Financial Implications:

The costs of the survey, appraisal and the City's legal costs will be covered in addition to the value of the lands agreed to in an Agreement of Purchase and Sale.

The City will receive revenue from the sale of the land and the tax revenue generated from the infill residential development.

Communication Strategy:

There are several points of communication noted in the next steps chart including public notice of intent to sell as well as stop up and close.

Consultation:

Several City Divisions were consulted including Clerks, Building, Planning & Heritage, Public Works and Engineering.

The next steps include a public notice of intent to stop up and close a portion of the road and a notice to declare the lands surplus.

Attachments:

1. Letter of Request
2. Conceptual Site Plan

Recommended by:

Pamela Coulter, Director of Community Services

Submission approved by:

Tim Simmonds, City Manager

For more information on this report, please contact Pam Coulter, Director of Community Services, at pcoulter@owensound.ca or 519-376-4440 Ext. 1252.