



REPORT TO COUNCIL

DATE: May 15, 2024

REPORT: DEV 24-030

FROM: Mark Allen, Director of Development Services

FILE: 5400-04/RC24-01

SUBJECT: Road Closing & Highway Dedication Removal Bylaw 1974 for Existing Road Right-of-Way, Hubert Street

RECOMMENDATIONS:

THAT Council give First, Second, and Third Readings to Bylaw No. 1974 – Hubert Street Road Closing and Highway Dedication Removal.

BACKGROUND:

In February 2023, the Town received a road closure and purchase request for the Hubert Street road right-of-way, approximately 20m wide by 300m long, located diagonally between lower Main Street and Riverside Drive (see Attachments 1 and 2). The adjacent owner on the north-west side wishes to purchase the closed road and consolidate it with his property for a proposed residential development.

The road right-of-way was created by subdivision in 1936 and may have been part of the provincial highway before lower Main Street was constructed, but it has not been utilized since then.

Council reviewed the request in the February 28th, 2023 Closed Meeting and resolved that staff proceed with the request. Until recently, the road closing was only able to be processed, due to changes in Planning Staff and competing priorities. Staff have been in contact with the adjacent owner/applicant.

DISCUSSION:

As per the *Community Charter*, the Province vests the ownership and possession rights of highways with municipalities within their boundaries. A municipality has the authority to permanently close and remove dedication of all or a part of an existing road right-of-way. Before a municipality may dispose of unnecessary road right-of-

CAO <input type="checkbox"/>	Dir/FIN <input type="checkbox"/>	PCSO <input type="checkbox"/>	Agen Date: May 28, 2024
Dir/CS <input type="checkbox"/>	Dir/DS <input type="checkbox"/>	EC/DEV <input type="checkbox"/>	Closed Agen Date:
EXEC. ASST <input type="checkbox"/>	Dir/OPS <input type="checkbox"/>	REC <input type="checkbox"/>	Agenda Placement: Bylaws
HR <input type="checkbox"/>	Dir/COM <input type="checkbox"/>	BLDG INS <input type="checkbox"/>	Other:
MAYOR <input type="checkbox"/>	AIRPORT <input type="checkbox"/>	PLANNER <input type="checkbox"/>	
COUNCIL <input type="checkbox"/>	FIRE <input type="checkbox"/>	WEBSITE <input type="checkbox"/>	

ways, the road must be closed by bylaw, including removing the right of resumption; then it may be sold and transferred to a new owner as part of a property consolidation. The impact of a road closure on public access to amenities and ability of adjacent owners to access their properties are two key considerations.

Staff support the proposed Hubert Street road closing and highway dedication removal for the following reasons:

- Impact on adjacent property owners: The adjacent property south-east of Hubert Street is accessed from Main Street and Riverside Drive. The adjacent property on the north-west currently has access from Hubert Street from the Riverside end. The proposed road closure and consolidation will not have any adverse accessibility impacts. Public will have the opportunity to make written/verbal submissions to Council as part of the Public Opportunity to be held before the proposed bylaw's adoption.
- Efficient use of land: In the subject case, the adjacent owner/requestor may utilize the Hubert Street road as a private access and allow the existing lots 1 and A to be utilized for residential development. The owner's development potential on both lots (to be consolidated) is limited with the existing Dahlie Creek that runs through the west end and with private water and private sewage disposal systems; owning the road and utilizing it for vehicular access & parking will allow maximum and more efficient land development.
- Site services: The proposed road closure and highway dedication removal will not impact servicing of the consolidated or adjacent parcels as all utilities are from either Main Street or Riverside Drive, including site drainage.
- Town interests: Town Operations has not maintained Hubert Street for at least the past 25 years. Staff have no plans for the future use of the road or its right-of-way for any utility servicing, as both Main Street and Riverside Drive are available. Therefore, staff believe its closure and transfer to the adjacent land owner is a better use of the road right-of-way, and reduces Town liabilities.
- Other factors: other considerations listed in the *Community Charter*, such as access to waterbodies, do not apply to the subject case.

With the adoption of the proposed bylaw (see Attachment 3), the closed road area will cease to be a highway and the highway dedication will be removed. In accordance with the *Land Title Act*, the adopted bylaw will subsequently be filed with the Land Titles Office, enabling the closed road area title to be registered in the Town's name. As the next step, the Town is required to dispose of the 'closed area' to the Applicant, at fair market value, as determined by a third-party appraisal. Final negotiations and the disposition process will occur prior to the bylaw adoption.

RESOURCE CONSIDERATIONS:

The Town does not have an established procedure for processing road closing requests. Where the Town has an interest in a proposed road closure, the Town covers all the costs, including those associated with legal site survey, public notification,

newspaper advertisements, and staff hours. Given that the proposed road closure was not initiated by the Town, the Applicant will cover 50% of the cost for the appraisal.

All the associated costs regarding the above can be funded from current operating budgets. The net sale amount would be credited to the Capital Works Land Sales Reserve.

LEGAL/POLICY CONSIDERATIONS:

The sale of land that was formerly a municipal highway, to the owner of an adjacent parcel for the purpose of land consolidation, cancels the provincial government's authority to resume ownership of the former highway land for meeting the Ministry's transportation-related needs in the future. The disposition of the land must be done in compliance with the Community Charter.

ENVIRONMENTAL/ACCESSIBILITY CONSIDERATIONS:

The proposed highway closing, and dedication removal does not have adverse environmental or accessibility implications.

COMMUNICATIONS:

In accordance with section. 94 of the *Community Charter* and *Town of Smithers Public Notice Bylaw No. 1929*, notice of the proposed bylaw will be posted on the Town of Smithers official website and Facebook page. In addition, notifications will be sent to property owners affected by the proposed bylaw, and a public notice will be published in one edition of Interior News, inviting comments from public. Similarly, feedback will be invited from utility companies, the Office of Wet'suwet'en, and the Witset First Nation. The Ministry of Transportation and Infrastructure (MOTI)'s approval is mandatory to proceed to the bylaw adoption.

ALTERNATIVES:

- Advise staff to submit additional information
- Request modifications to the proposed bylaw

ATTACHMENTS:

1. Hubert Street Area to be Closed
2. Hubert Street Images
3. Road Closing Bylaw No. 1974

Respectfully submitted:

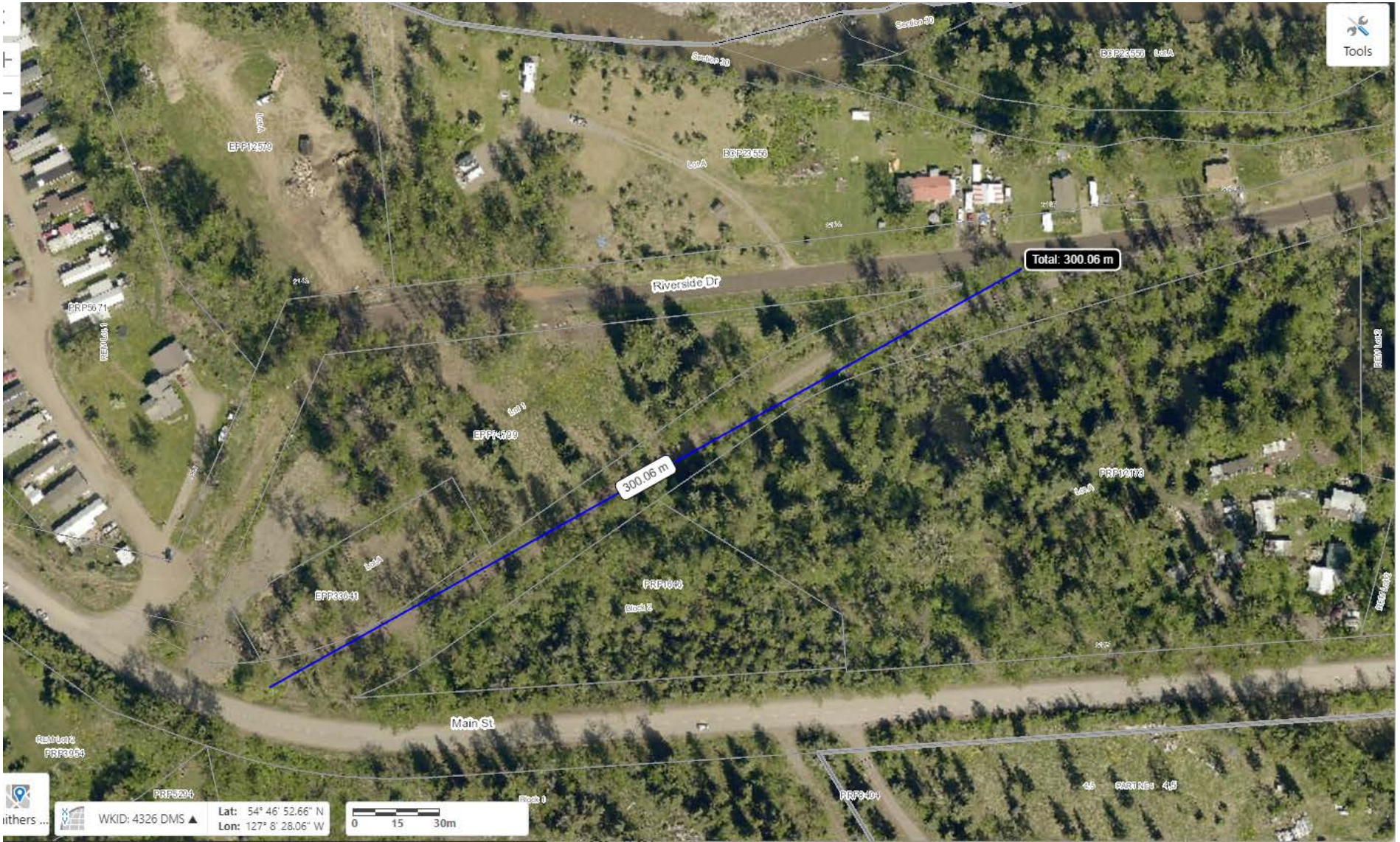


Mark Allen
Director of Development Services

Submission approved by:



Michael Dewar
Chief Administrative Officer



Hubert Street Right-of-Way Approx. 300m Long Between Lower Main Street and Riverside Drive



Hubert Street in Center (No Thru Road), via Google Streetview Looking West on Riverside Drive



BYLAW NO. 1974

HUBERT STREET ROAD CLOSURE AND HIGHWAY DEDICATION REMOVAL

WHEREAS Section 40 of the *Community Charter* authorizes Council, by bylaw, to permanently close and remove highway dedication of all or part of a highway that is vested in the municipality;

NOW THEREFORE be it resolved that the Council for the Town of Smithers in open meeting assembled, enacts as follows:

1. **CITATION:**

This bylaw may be cited for all purposes as “Bylaw No. 1974 – Hubert Street Road Closure and Highway Dedication Removal” and comes into effect on the date of adoption.

2. **ADMINISTRATIVE PROVISION:**

2.1 If any portion of this bylaw is found invalid by a court of competent jurisdiction, it shall be severed and the severance shall not affect the validity of the remainder of the bylaw.

2.2 The schedule to this bylaw is an integral part of this bylaw.

3. **ROAD CLOSING:**

3.1 That portion of the road right-of-way between Main Street and Riverside Drive, created by Plan PRP1646 (February 18, 1936), outlined in bold black and identified as “HUBERT STREET (Area = 5,464 m²)” on Schedule “A”, attached to and forming part of this bylaw, is hereby closed to all traffic and the highway dedication removed.

3.2 That portion of road closed by this bylaw and described in Section 3.1 is hereby authorized to be disposed of and transferred to the adjacent landowner for the purpose of consolidating it with Lot 1 Section 30 Township 4 Range 5 Coast District Plan EPPRP74799 and with Lot A Section 30 Township 4 Range 5 Coast District Plan EPP33641.

3.3 The Mayor and Corporate Officer are hereby authorized to execute all conveyances, titles, survey plans, forms, and other documents necessary to affect the road closure and removal of highway dedication.

TOWN OF SMITHERS

BYLAW NO. 1974

Page 2

READ A FIRST TIME THIS DAY OF , 2024.

READ A SECOND TIME THIS DAY OF , 2024.

READ A THIRD TIME THIS DAY OF , 2024.

RECEIVED APPROVAL OF THE MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE ON THIS DAY OF , 2024.

PUBLIC OPPORTUNITY WAS HELD THE DAY OF , 2024.

ADOPTED THIS DAY OF , 2024.

The Corporate Seal of the Town of Smithers
was hereto affixed in the presence of

Gladys Atrill
Mayor

Michael Dewar
Chief Administrative Officer

**CERTIFIED A TRUE AND CORRECT
COPY** of Bylaw No. 1974, cited as “Bylaw
No. 1974 – Hubert Street Road Closure and
Highway Dedication Removal”

David Schroeter
Corporate Officer

