



**CITY OF HAMILTON**  
**PUBLIC WORKS DEPARTMENT**  
**Engineering Services Division**

<b>TO:</b>	Chair and Members Public Works Committee
<b>COMMITTEE DATE:</b>	August 31, 2015
<b>SUBJECT/REPORT NO:</b>	Proposed Permanent Closure and Sale of a Portion of Road Allowance Between Green Mountain Road and Smith Road, Stoney Creek (PW15058) - (Ward 11)
<b>WARD(S) AFFECTED:</b>	Ward 11
<b>PREPARED BY:</b>	Marilyn Preston (905) 546-2424, Extension 4298
<b>SUBMITTED BY:</b>	Gerry Davis, CPA, CMA General Manager Public Works Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That the application of Vinemount Quarries, Division of Waterford Sand & Gravel Limited, to permanently close and purchase a portion of unopened road allowance between Green Mountain Road and Smith Road, as shown on Appendix A, attached to Report PW15058, be approved, subject to the following conditions:

- (a) That the City Solicitor be authorized and directed to prepare a by-law to permanently close the highway;
- (b) That the appropriate by-law be introduced and enacted by Council;
- (c) That the Economic Development and Real Estate Division of the Planning and Economic Development Department be authorized and directed to sell the closed highway to Vinemount Quarries, Division of Waterford Sand & Gravel Limited, in accordance with the Procedural By-law for the Sale of Land, By-law No. 04-299 at fair market value;
- (d) That the City Solicitor be authorized and directed to register a certified copy of the by-law permanently closing the highway in the proper land registry office, upon confirmation from the Public Works Department that all applicable fees and costs associated with the application have been paid by the applicant;
- (e) That the by-law permanently closing the highway does not take effect until a certified copy of the by-law is registered in the proper land registry office;
- (f) That the Public Works Department publish a notice pursuant of the City's intention to pass the by-law pursuant to City of Hamilton By-law 04-299 being a By-law to

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Establish Procedures, including the Giving of Notice to the Public, Governing the Sale of Land Owned by the City of Hamilton.

**EXECUTIVE SUMMARY**

Vinemount Quarries, Division of Waterford Sand & Gravel Limited, has made application to permanently close and purchase a portion of unopened City road allowance running north/south between Green Mountain Road and Smith Road in Stoney Creek. The road allowance measures approximately 20m in width and 1088m in length. At the time the application was submitted, the applicant was the owner of all abutting properties except one residential parcel. The applicant has since purchased the remaining abutting property making the applicant the sole property owner abutting the road allowance. Although there were some objections to the application received, those objecting do not abut the Subject Lands. The other objections are based on the fact that the City intends to sell the Subject Lands to Vinemount Quarries, Division of Waterford Sand & Gravel Limited. There were no objections from municipal Departments and Divisions or Public Utilities. Therefore, staff support the permanent closure and sale of the unopened road allowance to Vinemount Quarries, Division of Waterford Sand & Gravel Limited.

***Alternatives for Consideration – See Page 4***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** The applicant has paid the Council approved user fee of \$4115.10. The Subject Lands will be transferred to Vinemount Quarries, Division of Waterford Sand & Gravel Limited, at fair market value, as determined by the Economic Development and Real Estate Division.

**Staffing:** An agreement to purchase the Subject Lands will be negotiated by the Economic Development and Real Estate Division.

**Legal:** The City Solicitor will prepare a by-law to permanently close the Subject Lands and will register it in the Registry Office once Council has approved the by-law. The City Solicitor will complete the transfer of the Subject Lands to Vinemount Quarries, Division of Waterford Sand & Gravel Limited, pursuant to an agreement of purchase and sale or Offer to Purchase as negotiated by the Economic Development and Real Estate Division.

**HISTORICAL BACKGROUND**

Vinemount Quarries, Division of Waterford Sand & Gravel Limited is the owner of all parcels of land surrounding an unopened road allowance running between Green Mountain Road and Smith Road in Stoney Creek. As such, the company has made application to permanently close and purchase the road allowance running north/south between the properties to ensure unrestricted access over the Subject Lands and between their land holdings.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

A by-law must be passed to permanently close the lands in accordance with the Municipal Act, 2001.

## **RELEVANT CONSULTATION**

The following City Departments and Divisions and Public Utilities were provided with a copy of this application and invited to provide comments:

- Planning and Economic Development Department: Development Engineering, Building Services, Economic Development and Real Estate and Planning
- Public Works Department: Engineering Services, Hamilton Water, Operations and Corporate Assets and Strategic Planning
- Hamilton Emergency Services
- Corporate Services Department: Budgets and Finance
- Ward Councillor
- Bell, Horizon Utilities, Hydro One and Union Gas

There were no objections from staff any City Departments and Divisions and Public Utilities.

The Engineering Services Division of Public Works advises that “access will not be permitted to Green Mountain Road and the existing Haul Route and Reduced Load (March-April) must be maintained.”

The Building Division of the Planning and Economic Development Department advises that “portions of the Subject Lands are zoned "ME" (Extractive Industrial) and portions of the Subject Lands are zoned "A" (Agricultural). As such, if the applicant is intending to use lands presently zoned "A" (Agricultural) for the processing of natural materials including screening, sorting, washing, crushing, storing and other similar operations related to an extractive industrial operation; or, to access to these existing or proposed quarry facilities through the road allowance, the lands shall be rezoned to an "ME" (Extractive Industrial) zone. A successful application for a rezoning is a course of action you might take to permit the intended use.”

Notice of the proposal was sent to property owners within a 400' (121.9 metre) radius of the Subject Lands, as shown on Appendix “B”, attached to report PW15058). In this instance there were 37 notices sent and the results were as follows:

In favour: 2                      Opposed: 5                      No comment: 30

One of the respondents opposed to the proposal was the owner of the only property abutting the Subject Lands which was not owned by the applicant at the time the application was submitted. That respondent has since sold the property to Vinemount Quarries, Division of Waterford Sand & Gravel Limited, making the applicant the owner of all properties abutting the road allowance. Of the remaining respondents not abutting the Subject Lands who are opposed, two did not provide a reason for their opposition

and two were opposed because the lands are proposed to be sold to Vinemount Quarries, Division of Waterford Sand & Gravel Limited.

### **ANALYSIS AND RATIONAL FOR RECOMMENDATION**

As there were no objections from municipal Departments and Divisions or Public Utilities, as the applicant is the owner of all lands abutting the Subject Lands and as the City will receive the revenue from the sale of the lands at fair market value, staff support the permanent closure and sale to the applicant.

### **ALTERNATIVES FOR CONSIDERATION**

The City could deny the application and retain the lands. However, the City would not receive the revenue which will be generated by the sale of the lands at fair market value to the applicant.

### **ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN**

#### **Strategic Priority #1**

A Prosperous & Healthy Community

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.*

#### **Strategic Objective**

1.1 Continue to grow the non-residential tax base.

### **APPENDICES AND SCHEDULES ATTACHED**

Appendix A: Aerial Drawing

Appendix B: Location Plan