



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	December 5, 2016
SUBJECT/REPORT NO:	Proposed Permanent Closure and Sale of a Portion of Road Allowance Abutting 40 Maple Drive, Stoney Creek (PW16112) (Ward 10)
WARD(S) AFFECTED:	Ward 10
PREPARED BY:	Marilyn Preston (905) 546-2424, Extension 4298
SUBMITTED BY:	Gord McGuire (Acting) Director, Engineering Services Public Works
SIGNATURE:	

RECOMMENDATION

That the application of the owner of 40 Maple Drive, Stoney Creek, to permanently close and purchase a portion of road allowance abutting the west side of 40 Maple Drive, Stoney Creek, as shown as Part 1, on Appendix "A", attached to Report PW16112, be approved, subject to the following conditions:

- (i) That the City Solicitor be authorized and directed to prepare a by-law to permanently close the highway;
- (ii) That the appropriate by-law be introduced and enacted by Council;
- (iii) 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 the owner of 40 Maple Drive, Stoney Creek in accordance with the Procedural By-law for the Sale of Land, By-law No. 04-299 at fair market value and the remainder of the portion of road allowance be transferred to the Bruce Trail Conservancy at a nominal fee;
- (iv) 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;
- (v) 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;

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- (vi) 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 Establish Procedures, including the Giving of Notice to the Public, Governing the Sale of Land Owned by the City of Hamilton;
- (vii) That the remainder of the road allowance abutting the Subject Lands, shown as Part 2 on Appendix "A", attached to Report PW16112, be permanently closed and transferred to the Bruce Trail Conservancy at a nominal fee;

EXECUTIVE SUMMARY

The owner of 40 Maple Drive, Stoney Creek, applied to permanently close and purchase a portion of the road allowance abutting the west side of the property for private use. As the road allowance has historically been used as an access point for the Bruce Trail, the remainder of the road allowance abutting the Subject Lands will be transferred to the Bruce Trail Conservancy to ensure permanent access to the trail. The affected property owner south/west of the Subject Lands will continue to access their lands over the portion of road allowance which will be transferred to the Bruce Trail Conservancy. As the selling of a portion of the road allowance to each party will dispose of the entire road allowance with no remnant parcel remaining and as continued access to the Bruce Trail will be provided to the public, staff support the permanent closure and sale of the lands.

Alternatives for Consideration – See Page 4

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The applicant has paid the Council approved user fee of \$4197.40. The Subject Lands will be transferred to the owner of 40 Maple Drive, Stoney Creek at fair market value, as determined by the Economic Development and Real Estate Division. The remainder of the road allowance abutting the Subject Lands will be transferred to the Bruce Trail Conservancy at a nominal fee.

Staffing: Agreements 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 a portion of the Subject Lands to the owner of 40 Maple Avenue, Stoney Creek and a portion of the Subject Lands to the Bruce Trail Conservancy, pursuant to an agreement of purchase and sale or Offer to Purchase as negotiated by the Economic Development and Real Estate Division.

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HISTORICAL BACKGROUND

The owner of 40 Maple Drive, Stoney Creek, made application to the City to permanently close and purchase a portion of road allowance abutting the west side of the property. The Subject Lands have historically been used by the public to access the Bruce Trail. In order to ensure access to the trail, the Bruce Trail Conservancy was approached to determine whether they had any interest in assuming ownership of the remainder of the road allowance abutting 40 Maple Drive, Stoney Creek. As the agency was interested in acquiring the lands, a new Plan designating Part 1 to be transferred to the applicant and Part 2 to be transferred to the Bruce Trail Conservancy has been submitted for approval.

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
- Mayor and Ward Councillor
- Bell, Horizon Utilities, Hydro One and Union Gas

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

Notice of the proposal was sent to 26 property owners within a 400' (121.9 metre) radius of the Subject Lands, as shown on Appendix "B", attached to report PW16112).

The responses are as follows:

In favour: 1

Opposed: 4

No comment: 21

Three of those opposed did not provide any reason for their opposition and do not abut the Subject Lands. The fourth respondent opposed is the owner of two portions of former City road allowance, beginning south of 36 Maple Avenue and north of the TH&B lands, west of the Subject Lands, as shown on Appendix "A", attached to Report PW16112. The reason for the opposition is as follows:

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“My concern is that this action will land lock my property inhibiting access to my property”.

The property owner opposed has been accessing his property through the lands which are currently deemed road allowance. As one portion of the road allowance will be transferred to the Bruce Trail Conservancy who must keep the lands open to the public, the owner will continue to be able to access to his lands through the former road allowance.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As there were no objections from municipal Departments and Divisions or Public Utilities and as the City will receive the revenue from the sale of the lands known as Part 1 at fair market value and as transferring the remainder of the road allowance known as Part 2 to the Bruce Trail Conservancy will ensure access to the trail for the public, including the property owner to the south of the Subject Lands, staff supports the permanent closure and sale to the applicant.

ALTERNATIVES FOR CONSIDERATION

The City could deny the application and retain the lands. However, as the City would not receive the revenue which will be generated by the sale of the lands at fair market value to the applicant and as transferring the lands to the Bruce Trail Conservancy will relieve the City from any future liability regarding the trail access, permanently closing and transferring the lands is the most reasonable course of action.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Built Environment and Infrastructure

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

APPENDICES AND SCHEDULES ATTACHED

Appendix A: Aerial Drawing

Appendix B: Location Plan