



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	August 17, 2017
SUBJECT/REPORT NO:	Proposed Permanent Closure and Sale of Moonlight Court and Bowridge Court, Hamilton (PW17065) (Ward 9)
WARD(S) AFFECTED:	Ward 9
PREPARED BY:	Marilyn Preston (905) 546-2424, Extension 4298
SUBMITTED BY:	Gary Moore, P.Eng. Director, Engineering Services Public Works
SIGNATURE:	

RECOMMENDATION

That the application of Parkside Developments (Albion) Limited to permanently close and purchase the lands known as Moonlight Court and Bowridge Court, Hamilton, as shown on Appendix "A", attached to Report PW17065, 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 Parkside Developments (Albion) Limited, in accordance with By-law 14-204 (Sale of Land Policy), for a nominal fee;
- (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;
- (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 14-204 (Sale of Land Policy);
- (g) That the applicant enters into agreements with any Public Utility requiring easement protection.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

EXECUTIVE SUMMARY

On November 3, 2010, an Ontario Municipal Board (OMB) decision approved Note No. 5, of OMB Case No. PL100232. Plan 62M-1172 was registered on February 29, 2012 and the decision states that in the event that the necessary property for the completion of Streets “G” and “H”, municipally known as Moonlight Court and Bowridge Court, Hamilton, are not acquired by either the owner or another party or parties within five (5) years subsequent to the registration of the plan of subdivision or any other phase thereof, then the owner may apply to close the streets. The application would be for the purpose of creating one or more building lots, in accordance with the applicable Zoning for the lands that make up the courts. In addition, the owner would be required to demonstrate to the satisfaction of the Director of Planning that reasonable efforts were made to acquire the necessary lands. In accordance with the OMB decision, staff support the request of Parkside Developments (Albion) Limited to permanently close and purchase the lands known as Moonlight Court and Bowridge Court, Hamilton.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The applicant has paid the Council approved User Fee of \$4454.00. The Subject Lands will be transferred to Parkside Developments (Albion) Limited for a nominal fee, in accordance with OMB Case No. PL100232, Condition 1.51(e), which stipulates that the courts are to be closed and returned to the developer at nominal cost.

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 Parkside Developments (Albion) 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

As part of a decision by the Ontario Municipal Board (OMB) regarding the subdivision known as Penny Lane Estates, Phase 3, OMB Case No. PL100232, stated the following requirements regarding Moonlight Court and Bowridge Court (known as Streets “G” and “H”):

The Subdivision Plan was registered on February 29, 2012 as Plan 62M-1172 and this is the date from which the five (5) years subsequent to registration begins. The owner shall be responsible for all costs associated with the road closing application, the transfer, as well as the removal and capping of any

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

SUBJECT: Proposed Permanent Closure and Sale of Moonlight Court and Bowridge Court, Hamilton (PW17065) (Ward 9) - Page 3 of 4

servicing laterals extending into the street(s). **NOTE:** In the event that the necessary property for the completion of Streets "G" and "H" are not acquired by either the owner or another party or parties within five (5) years subsequent to registration of the plan subdivision or any phase thereof as approved by the Director of Planning, then the owner may apply to the City to close the streets. The decision further states that the owner may make such applications as are necessary pursuant to the Planning Act R.S.O.,c.P.13, as amended, for the purpose of creating one or more building lots in accordance with the applicable Zoning for the lands made up of Streets G and Blocks 256 and 257 and Street H and Blocks 258 and 259. Therefore, Parkside Developments (Albion) Limited has made application to permanently close and purchase Moonlight Court and Bowridge Court for development purposes.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

A by-law must be passed to permanently close the lands in accordance with the *Municipal Act, 2001*. According to the OMB Decision Condition 1.51(e) the courts are to be closed and returned to the developer at nominal cost.

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, Economic Development and Real Estate and Planning
- Public Works Department: Engineering Services, Hamilton Water, Environmental Services, Operations and Transportation
- Hamilton Emergency Services
- Corporate Services Department: Budgets and Finance
- Mayor and Ward Councillor
- Bell, Horizon Utilities/Alectra Utilities, Hydro One and Union Gas

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

Hamilton Water advises the following:

There are short water mains installed on both courts and a fire hydrant is installed on Moonlight Court. As per the Form 1 approval granted in December 2014, the proponent has agreed to flush these short watermains to ensure water quality. If there is no intention to further develop the lands adjacent to these courts, proper decommissioning of these watermains and appurtenances will be required. As well, in both Moonlight Court and Bowridge Court there are existing short runs of storm sewer and sanitary

**SUBJECT: Proposed Permanent Closure and Sale of Moonlight Court and
Bowridge Court, Hamilton
(PW17065) (Ward 9) - Page 4 of 4**

sewer. If there is no intention for further development, the City may require an easement for access and maintenance in the future.

The developer sent registered letters to nine (9) property owners on First Road West on August 2, 2012 and September 20, 2012 to advise them that the Subject Lands were proposed to be closed and that there may be an impact on future planning considerations.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

In accordance with the OMB decision, the Subject Lands are to be transferred to the developer Parkside Developments (Albion) Limited.

ALTERNATIVES FOR CONSIDERATION

As the transfer of the Subject Lands to the developer form part of an OMB decision, there are no alternatives.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

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: Moonlight Court and Bowridge Court: Location Plan