



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	September 17, 2018
SUBJECT/REPORT NO:	Proposed Permanent Closure and Sale of a Portion of Binkley Road and a Portion of Original Road Allowance Between the Townships of Beverly and West Flamborough, Dundas, ON (PW18081) (Ward 13 & Ward 14)
WARD(S) AFFECTED:	Ward 13 & Ward 14
PREPARED BY:	Gary Kirchknopf, Senior Project Manager Corridor Management (905) 546-2424, Extension 7217 Cetina Farruggia, Road Programming Technician Corridor Management (905) 546-2424, Extension 5803
SUBMITTED BY:	Gord McGuire Director, Engineering Services Public Works
SIGNATURE:	

RECOMMENDATION

That the applications of the owners of 29 Middletown Road, 107 Middletown Road, and 67 Middletown Road, Dundas, ON, to permanently close and purchase a portion of Binkley Road (Forced Road) and a Portion of Original Road Allowance between the Townships of Beverly and West Flamborough, Dundas, ON ("Subject Lands"), as shown on Appendix "A", attached to Report PW18081, be approved, subject to the following conditions:

- (a) That the City Solicitor be authorized and directed to prepare all necessary by-laws to permanently close and sell the highway, for enactment by Council;
- (b) That the Real Estate Section of the Planning and Economic Development Department be authorized and directed to sell the closed highway to the owners of 29 Middletown Road, 107 Middletown Road, and 67 Middletown Road, Dundas, ON, in accordance with the City of Hamilton Sale of Land Policy By-law 14-204;
- (c) The City Solicitor be authorized to complete the transfer of the Subject Lands to the owners of 29 Middletown Road, 107 Middletown Road, and 67 Middletown Road, Dundas, ON pursuant to Agreements of Purchase and Sale or Offer to Purchases

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as negotiated by the Real Estate Section of the Planning and Economic Development Department;

- (d) That the City Solicitor be authorized and directed to register a certified copy of the by-laws permanently closing and selling the highway in the proper land registry office;
- (e) That the Public Works Department publish any required notice of the City's intention to pass the by-laws and/or permanently sell the closed highway pursuant to the City of Hamilton Sale of Land Policy By-law 14-204;
- (f) That the applicants be fully responsible for the deposit of a reference plan in the proper land registry office, and that said plan be prepared by an Ontario Land Surveyor to the satisfaction of the Manager, Geomatics and Corridor Management Section, and that the applicant also deposit a reproducible copy of said plan with the Manager, Geomatics and Corridor Management Section.

EXECUTIVE SUMMARY

The owners of 29 Middletown Road, Dundas, ON has made an application to permanently close and purchase a portion of Binkley Road, Dundas ON in order to provide his property access to Governor's Road, as the City had opted to close the Binkley Road hill due to its need for extensive and costly maintenance. The owners of 107 Middletown Road, and 67 Middletown Road, Dundas, ON, have each made application to close and purchase a Portion of Original Road Allowance between the Townships of Beverly and West Flamborough, Dundas, ON in order to add to their existing property limits. There were no objections from any City Departments, divisions, or public utilities. Staff reviewed 4 objections from abutting land owners. 2 objections did not provide reason for objection. One owner objected as they want to maintain a walking trail along the existing road allowance known as Binkley Road. One owner expressed concerns regarding road traffic, access to the rear of their property for future development, and trail enjoyment. Upon review of these comments, this road was open for half the year with public traffic and now has been closed by the City with no intention of reopening due to the extended costs of maintaining and restructuring the road. As a private road would not create the same level of traffic residents were accustomed to while the road was open, and as there is no City plan for this road to be used as a trail in the future, staff support the applications.

Alternatives for Consideration – See Page 4

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The applicant has paid the Council approved user fee of \$4,454.00. The Subject Lands will be sold to the owners of 29 Middletown Road, 107 Middletown Road, and 67 Middletown Road, Dundas, ON, as determined by the Real Estate Section of the Planning and Economic Development

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Department, in accordance with the City of Hamilton Sale of Land Policy By-law 14-204.

Staffing: An agreement to purchase the Subject Lands will be negotiated by the Real Estate Section of the Planning and Economic Development Department.

Legal: The City Solicitor will prepare all necessary by-laws to permanently close and sell the Subject Lands and will register such by-laws in the Land Registry Office once Council has approved the by-law. The by-law does not take effect until the certified copy of the by-law is registered in the proper land registry office. The City Solicitor will complete the transfer of the Subject Lands to the owners of 29 Middletown Road, 107 Middletown Road, and 67 Middletown Road, Dundas, ON, pursuant to agreements negotiated by the Real Estate Section of the Planning and Economic Development Department.

HISTORICAL BACKGROUND

The portion of the Subject Lands known as Binkley Road operated as a seasonal access between Middletown Road and Binkley Road, Dundas ON. In 2015, the City's Road Operations division decided to permanently close this road access due to the extensive costs to repair and maintain this access. A geotechnical consultant reviewed the embankment issues noted by staff and a decision was made to close the road following this investigation as there was no funding available to repair the seasonal road. In early 2018, Corridor Management staff met with Road Operations staff to discuss the proposed closure of Binkley Road. On March 24, 2018 staff received an application from the owner of 29 Middletown Road to close and purchase a portion of the Subject Lands (A) for the purpose of creating a private access road from their property to lower Middletown Road which further creates access to Governors Road. On March 24, 2018 staff also received an application from the owner of 67 Middletown Road to close and purchase a portion of the Subject Lands (B) for the purpose of extending existing property limits. On April 16, 2018 staff received a third application from the owner of 107 Middletown Road to close and purchase a portion of the Subject Lands (C) also for the purpose of extending existing property limits. These portions of the Subject Lands being a portion of the Original Road Allowance between the township of Beverly and West Flamborough are currently untraveled.

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:

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- Planning and Economic Development Department: Development Engineering, Building, Economic Development, Real Estate, and Planning
- Public Works Department: Engineering Services, Hamilton Water, Operations, Environmental Services, 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 received from any public utilities, City departments and divisions.

Road Operations provided the following comments:

“Binkley Road from approx. 200 metres north of Old Governors Rd to where it meets Middletown Rd on the other side of the valley was a seasonal road normally closed between October and April over the winter period. No maintenance was carried out during these months. During 2015 embankment problems were noted by one of our Road Supervisors. This was investigated by our Section. We retained a geotechnical consultant to review the embankment and provide recommendations. The stability of the embankment is a concern and is therefore a safety concern for motorists on this road. The road was closed following the investigation. No funding is available to repair this seasonal road.”

Notice of the proposal was sent to all abutting property owners of the Subject Lands, as shown on Appendix “B”, for comment. In this instance, there were 25 notices mailed, and the results are as follows:

In favour: 6

Opposed: 4

No comment: 1

Two of the opposed responses did not provide comment for the reason for their objection. One owner objected as they want to maintain a walking trail along the existing road allowance known as Binkley Road. One owner expressed concerns regarding road traffic, access to the rear of their property for future development, and trail enjoyment. Upon review of these comments, this road was open for half the year with public traffic and now has been closed by the City with no intention of reopening due to the extended costs of maintaining and restructuring the road. As a private road would not create the same level of traffic residents were accustomed to while the road was open, and as there is no City plan for this road to be used as a trail in the future, staff support the applications of the owners of 29 Middletown Road, 107 Middletown Road, and 67 Middletown Road, Dundas, ON.

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(PW18081) (Ward 13 & Ward 14) - Page 5 of 5**

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As there were no objections received from any City Departments, Divisions, or Public Utilities, and 4 objections received from abutting owners that staff have reviewed and determined would not any more affected by the closure and sale as if the road were to remain open for public use, staff support the applications from the owners of 29 Middletown Road, 107 Middletown Road, and 67 Middletown Road, Dundas, ON.

ALTERNATIVES FOR CONSIDERATION

The City could deny these applications, and the road allowances would remain public.

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: Aerial Drawing

Appendix B: Location Plan

Appendix C: Schedule of Land Applications