



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 Moxley Road, Dundas, ON (PW18082) (Ward 14)
WARD(S) AFFECTED:	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 application of Lafarge Canada Inc., to permanently close and purchase the northerly portion of Moxley Road between Concession 4 West and Highway 5 Dundas, ON ("Subject Lands"), as shown on Appendix "A", attached to Report PW18082, 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 Lafarge Canada Inc. 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 Lafarge Canada Inc. pursuant to an Agreement of Purchase and Sale or Offer to Purchase 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-law permanently closing and selling the highway in the proper land registry office;

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- (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 applicant enters into agreements with any Public Utility requiring easement protection;
- (g) That the applicant 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;
- (h) That the applicant is fully responsible for the construction of a cul-de-sac at the northern limit of the public road allowance, to City Standards, as determined by the Road Operations Division, Public Works Department.

EXECUTIVE SUMMARY

Lafarge Canada Inc. has made application to permanently close and purchase a portion of Moxley Road running North/South between Concession Road 4 West and Highway 5, Dundas, ON. The applicant proposes this closure as a product of Official Plan Amendment and Zoning By-Law Amendment approved by council on November 22, 2017 to facilitate the Lafarge Dundas South Quarry Extension. There was one objection received from Transportation Planning and no other objections received from any other City Departments, Divisions, or Public Utilities. Transportation Planning raised concerns regarding 568 and 588 Moxley Road losing road access, however, these properties are owned by Lafarge Canada Inc. and were included in PED17194 as part of the South Quarry Extension application and have been re-zoned and demolished. Corridor Management staff are satisfied that this objection has been addressed. There were 3 opposed responses received from land owners who abut the portion of Moxley Road that will remain open. 2 of the opposed did not provide reason for opposition. One provided concerns related to traffic impact and illegal parking on Highway 5 that impacts road safety. A traffic impact study was completed and reviewed by City Staff without any concerns, as a product of the Zoning Amendment By-Law application ZAC-13-051 and Official Plan Amendment Application RHOPA-13-015 as indicated in report PED17194 approved by Council on November 22, 2017. Furthermore, staff received correspondence from the applicant regarding the implementation of a driver education program as well as the site being opened as early as 4am to allow trucks to queue on-site during construction season. As such, staff are in support of the application to permanently close and sell the Subject Lands to Lafarge Canada Inc..

Alternatives for Consideration – See Page 5

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 Lafarge Canada Inc., as determined by the Real

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Estate Section of the Planning and Economic Development 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 Lafarge Canada Inc., pursuant to an agreement negotiated by the Real Estate Section of the Planning and Economic Development Department.

HISTORICAL BACKGROUND

Lafarge Canada Inc. currently operates the Lafarge Dundas Quarry (ARA Licence #5473) which is located to the east of Moxley Road. Lafarge recently received OPA (RHOPA-13-015) and Zoning By-Law Amendment (ZAC-13-051) approval through PED17194 approved by Council on November 22, 2017. On April 9, 2018 Lafarge then received an Aggregate Resource Act license from MNRF for the Dundas South Quarry Extension (ARA Licence #625711) which include lands to the east and west of Moxley Road. As part of the pre-consultation process for the South Quarry Extension application, the City of Hamilton asked if Lafarge would consider applying to close a portion of Moxley Road if the South Quarry Extension licence was approved. On May 15, 2018, an application to close and purchase the Subject Lands was received in order to facilitate maximization of aggregate resource and more efficient operation and rehabilitation plans. Furthermore, the closure of this section of Moxley Road would remove the requirement for a road crossing between Phases 1 and 2, which will facilitate the transfer of material from Phase 2 to the processing area in the approved South Quarry to the east. The portion of Moxley road, being the Subject Lands, is currently travelled, but does not have any occupied residences fronting onto it. All the agricultural users and residences south of the Subject Lands will still maintain road access to Highway 5 from the southern portion of Moxley Road that will remain open.

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, Economic Development, Real Estate, and Planning

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- 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, Imperial Oil and Union Gas

There was one objection received from Transportation Planning and no other objections received from any public utilities, City departments and divisions.

Hydro One, Union Gas, and Imperial Oil have advised that they will require easement protection.

Corridor Management provided the following comments:

“There needs to be land dedicated at the end of the public road allowance to the City and a cul-de-sac constructed to City Standards.”

Transportation Planning provided the following comments:

“Transportation does not support the road closure of Moxley Road as addresses 588 Moxley Road and 568 Moxley Road would lose access to their properties and become landlocked.” However, the properties referenced within this comment are currently owned by Lafarge Canada Inc., have had their zoning amended through PED17194 as part of the Lafarge South Quarry Extension, and have begun being demolished. Therefore, staff are satisfied that this objection has been addressed.

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 6 notices mailed, and the results are as follows:

In favour: 0

Opposed: 3

No comment: 1

Two of the three opposed responses did not provide comment for the reason to their opposition. One provided comments and concerns regarding traffic impact of accessing Highway 5 from Moxley Road as well as concerns related to illegal parking along Highway 5 which hinders sightlines and makes it difficult to safely turn onto Highway 5. With regards to the traffic impact, a full traffic study was completed and reviewed by City Staff as indicated in PED17194 as part of the Zoning Amendment By-Law and Official Plan Amendment applications which were approved by council on November 22, 2017. With regards to the illegally parked trucks along Highway 5, the applicant has advised staff that they have implemented a driver education program and during construction season opens its gates as early as 4am to allow for trucks to queue on-site which will rectify this issue.

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ANALYSIS AND RATIONALE FOR RECOMMENDATION

As there was one objection received from a City Department that staff are satisfied was not warranted, and there were no other objections received from any City Departments, Divisions, or Public Utilities, and staff were able to address the concerns raised by the opposing residents, staff are in support of the closure and sale of the Subject Lands to Lafarge Canada Inc.

ALTERNATIVES FOR CONSIDERATION

The City could deny the application and retain the lands as public highway.

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