




CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	May 31, 2021
SUBJECT/REPORT NO:	Proposed Permanent Closure and Sale of a Portion of Road Allowance Abutting 38 Strachan Street West, Hamilton (PW21034) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Marilyn Preston (905) 546-2424 Ext. 4298
SUBMITTED BY:	Gord McGuire Director, Engineering Services Public Works
SIGNATURE:	

RECOMMENDATION(S)

That the application of the City of Hamilton's Real Estate Section on behalf of CityHousing Hamilton Corporation to permanently close and sell a portion of road allowance abutting the west side of 38 Strachan Street West, Hamilton ("Subject Lands"), as shown as Parts A & B, on Appendix "A", attached to Report PW21034, 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) The Real Estate Section of the Planning and Economic Development Department be authorized and directed to enter into any requisite easement agreements, right of way agreements, and/or other agreements deemed necessary to affect the orderly disposition of the Subject Lands and to proceed to sell the Subject Lands as deemed necessary by the Real Estate Section, as described in Report PW21034, 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 pursuant to an Agreement(s) of Purchase and Sale or Offer(s) to Purchase as

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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(s) permanently closing and selling the highway in the proper land registry office;
- (e) That the City Solicitor be authorized to amend and waive such terms as the City Solicitor considers reasonable to give effect to this authorization and direction;
- (f) 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;
- (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.

EXECUTIVE SUMMARY

Report PED17219, following the direction of the Site Selection Sub Committee, approved at Council on June 28, 2017 as part of GIC Report 17-014, identified 38 Strachan Street West as a suitable site for facilitating affordable housing development. Therefore, the City of Hamilton's Real Estate Section on behalf of CityHousing Hamilton Corporation has made an application to permanently close, retain, and then sell a portion of the road allowance abutting the west side of 38 Strachan Street West, Hamilton.

The parcel is located in an area bounded by Bay Street North, Strachan Street West and the rear of properties fronting onto Simcoe Street West and fronting onto MacNab Street North in Hamilton. Objections were received from respondents abutting the Subject Lands at the rear of properties fronting on MacNab Street North, however there were no reasons stated for the objections.

The owner of 360 Bay Street North is opposed to the application as they have an existing driveway which is located within the road allowance and as they have concerns regarding privacy and a reduction in the value of the property when the units are built. However, the driveway has been located within the Subject Lands and not in the location which was approved by an existing encroachment agreement with the City. Nonetheless, preliminary discussions have been had with CityHousing Hamilton regarding the possibility of accommodating the request of the property owner at 360

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Bay Street North to maintain the current location of the encroaching driveway, which could result in the sale of that small strip of the Subject Lands, as shown as Part "A" on Appendix "A" attached to report PW21034, to said adjoining owner.

As the lands have been approved by Council to facilitate the development of affordable housing, staff support the application either with or without the related potential sale of the adjoining encroaching driveway at 360 Bay Street North, Hamilton.

Alternatives for Consideration – N/A

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: In order to further support the CityHousing Hamilton Corporation there was no user fee applied to this application. The Subject Lands will be closed, retained, and then sold as determined by the Real Estate Section for an amount to be determined by the Real 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, retain, then 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, pursuant to an agreement negotiated by the Real Estate Section of the Planning and Economic Development Department.

HISTORICAL BACKGROUND

Report PED17219, approved at Council on June 28, 2017, as part of GIC Report 17-014, identified the Subject Lands as suitable to facilitate an affordable housing project. In order to proceed with the disposition of the lands, the City's Real Estate Section on behalf of CityHousing Hamilton Corporation has applied to have the road allowance permanently closed in order to facilitate the future development of the lands. The developer has been made aware of the potential need for the sale of the driveway area servicing the adjoining residential property at 360 Bay Street North, Hamilton.

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 public utilities, City departments and divisions were provided with a copy of the application and were invited to provide comments:

- 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, Alectra Utilities, Hydro One, and Enbridge Gas

Notice of the proposed closure and sale was sent to City departments and divisions and public utilities and the following comments were received:

Landscape Architectural Services has advised that they are opposed to the application as the Subject Lands are currently functioning as Open Space and the closure and sale will reduce Open Space in the North End West Neighbourhood which is deficient in parkland.

Hamilton Water and Bell will require easement protection.

Notice of the proposal was sent to properties in close proximity to the Subject Lands, as shown on Appendix "B", attached to Report PW21034 for comment. In this instance, there were 17 notices mailed, and the results are as follows:

In favour: 1

Opposed: 6

No comment: 10

The owners of 360 Bay St North provided the following response:

"We made an application for a driveway in 1994. The City agreed but said the Hydro pole on the north/east side of Bay Street on the property would be too close, so the driveway was constructed slightly to the south of the pole, as it remains 26 years later. To make the driveway accessible the pole would have to be moved and the ramp recut. We are also concerned about the serious effects on the value of the property and privacy should the proposed units be built too close to the house." However, there is an existing boulevard parking agreement, registered as Instrument Number VM 193979, which shows that the existing parking is located within the Subject Lands and not located in the area approved by the agreement. The developer has been made aware of the potential need for the sale of the driveway area servicing the adjoining residential property at 360 Bay Street North, Hamilton.

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The other negative responses received did not give any reason for opposition.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

Report PED17219, approved at Council on June 28, 2017, as part of GIC Report 17-014, identified the Subject Lands as suitable to be used to facilitate an affordable housing project.

ALTERNATIVES FOR CONSIDERATION

N/A

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” to Report PW21034 - Aerial Drawing
Appendix “B” to Report PW21034 - Location Plan