




CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	April 4, 2022
SUBJECT/REPORT NO:	Proposed Permanent Closure and Sale of a Portion of Kerr Street, Dundas (PW22025) (Ward 13)
WARD(S) AFFECTED:	Ward 13
PREPARED BY:	Cetina Farruggia (905) 546-2424 Ext. 5803
SUBMITTED BY:	Susan Jacob Acting Director, Engineering Services Public Works Department
SIGNATURE:	

RECOMMENDATION

- (a) That the application of the owner of 35-37 Ogilvie Street, Dundas, to permanently close and purchase a portion of Kerr Street, Dundas ("Subject Lands"), as shown on Appendix "A", attached to Report PW22025, be approved, subject to the following conditions:
- (i) 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;
 - (ii) 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 to the owners of 35-37 Ogilvie Street, Dundas, as described in Report PW22025, in accordance with the City of Hamilton Sale of Land Policy By-law 14-204;
 - (iii) The City Solicitor be authorized to complete the transfer of the Subject Lands to 35-37 Ogilvie Street, Dundas 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;

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- (iv) 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;
- (v) That the City Solicitor be authorized to amend and waive such terms as they consider reasonable to give effect to this authorization and direction;
- (vi) That the Public Works Department publish any required notice of the City of Hamilton'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;
- (vii) 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;
- (viii) That the proceeds of the sale of the Subject Lands be transferred to the Transportation, Operations and Maintenance Division for the purpose of repaving the remaining portion of Kerr Street, Dundas in order to accommodate a safe and functional 3-point turn radius for maintenance vehicles, removal of the curb cut and restoration of the sidewalk at the western limit of the Subject Lands, as well as any additional roadway maintenance requirements in Ward 13, to the satisfaction of the Ward Councillor in consultation with Transportation, Operations and Maintenance Division Staff;
- (ix) The applicant constructs a fence (with optional private pedestrian gate) along the western property limit of the Subject Lands within 1 year of successful purchase of the Subject Lands, in accordance with the City of Hamilton Fence By-law 10-142, to the satisfaction of the Ward Councillor;
- (x) That the 3-point turn around area at the southern end of Kerr Street, Hamilton, be signed "No Parking Anytime" and the rest of the east side of Kerr Street be signed "No Parking Anytime, December 1st to March 31st", to the satisfaction of the Manager, Parking Operations and Initiatives.

EXECUTIVE SUMMARY

The owner of 35-37 Ogilvie Street, Dundas, has made an application to permanently close and purchase a portion of the road allowance abutting the south side of their

property. The applicant proposes this closure in order to facilitate land assembly. Staff met with Transportation, Operations, and Maintenance staff to discuss their comments surrounding the need for a three-point turn at the southerly limit of Kerr Street, Dundas. As such, Recommendation viii within Report PW22025 was included to provide staff with appropriate direction. Funds to complete these works will be provided through the proceeds of the sale. As there were no objections from internal staff or public utilities, and no objections from any abutting land owner, staff support the application to close and sell the Subject Lands to the owner of 35-37 Ogilvie Street, Dundas.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The applicant has paid the Council approved user fee of \$4,634.00. The Subject Lands will be sold to the owners of 35-37 Ogilvie Street, Dundas, as determined by the Real Estate Section of the Planning and Economic Development Department, in accordance with the City of Hamilton (City) Sale of Land Policy By-law 14-204. Funds from the proceed of the sale will be transferred as per recommendation viii within Report PW22025.

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 35-37 Ogilvie Street, Dundas, pursuant to an agreement negotiated by the Real Estate Section of the Planning and Economic Development Department.

HISTORICAL BACKGROUND

The Subject Lands are part of a road allowance as shown on the Town of Dundas compiled plan by C.C. Carroll, P.L.S. dated June 18th, 1887 making reference to the J.O. Hatt Survey as an underlying survey plan. The road allowance was confirmed by a Boundary Act Order being BA 1635 registered on September 25, 1978 as plan D-16 in the Land Registry office. On September 23, 2019, the owner of 35-37 Ogilvie Street, Dundas applied to close and purchase all of Kerr Street to facilitate land assembly. Through the circulation process, due to resident objections, the limits of the proposed closure were adjusted to only include the portion of Kerr Street that abut the south side of the applicant's property. Staff met with various City Divisions to ensure this closure

and sale would pose no impact to roadway maintenance and garbage collection. Staff met with Transportation, Operations, and Maintenance staff to discuss their comments surrounding the need for a three-point turn at the southerly limit of Kerr Street, Dundas. As such, Recommendation (viii) within Report PW22025 was included to provide staff with appropriate direction. Funds to complete these works will be provided through the proceeds of the sale. The proposed works can be completed at any time post transfer of the Subject Lands. As there were no objections from any City Department, Division, or Public Utility, staff is supportive of the closure and sale of the Subject Lands to the owner of 35-37 Ogilvie Street, Dundas.

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, Transportation Operations and Maintenance, and Environmental Services
- Hamilton Emergency Services
- Corporate Services Department: Budgets and Finance
- Mayor and Ward Councillor
- Bell, Alectra Utilities, Hydro One, and Enbridge Gas

There were no objections received from any public utilities, City Departments and Divisions.

Enbridge Gas and Bell have advised that they will require easement protection.

Notice of the proposal was sent to all abutting property owners of the Subject Lands, as shown on Appendix "B", attached to Report PW22025 for comment. In this instance, there were 23 notices mailed, and the results are as follows:

In favour: 0

Opposed: 3

No comment: 0

Those who opposed are not abutting land owners. Concerns were related to parking, garbage pick-up, snow removal, and access to the Metro stairs. As a result of these

comments, the applicant amended their application to only include the portion of Kerr Street that abuts their property.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As there were no objections from any City Department, Division, or Public Utility, and no objections from abutting land owners, staff is supportive of the closure and sale of the Subject Lands to the owner of 35-37 Ogilvie Street, Dundas.

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 PW22025 - Aerial Drawing

Appendix “B” to Report PW22025 - Location Plan