




**CITY OF HAMILTON**  
**PUBLIC WORKS DEPARTMENT**  
**Engineering Services Division**

<b>TO:</b>	Chair and Members Public Works Committee
<b>COMMITTEE DATE:</b>	September 8, 2023
<b>SUBJECT/REPORT NO:</b>	Proposed Permanent Closure and Sale of a Portion of Concession 6 Road West, Flamborough (PW23054) (Ward 12)
<b>WARD(S) AFFECTED:</b>	Ward 12
<b>PREPARED BY:</b>	Cetina Farruggia (905) 546-2424 Ext. 5803
<b>SUBMITTED BY:</b>	Jackie Kennedy Director, Engineering Services Public Works Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That the application of the owner of 1165 Highway 8, Flamborough, to permanently close and purchase a portion of Concession 6 Road West, Flamborough ("Subject Lands"), as shown on Appendix "A", attached to Report PW23054, 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 Corporate Real Estate Office 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 1165 Highway 8, Flamborough, as described in Report PW23054, 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 1165 Highway 8, Flamborough pursuant to an Agreement of

Purchase and Sale or Offer to Purchase as negotiated by the Corporate Real Estate Office of the Planning and Economic Development Department;

- (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'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.

## **EXECUTIVE SUMMARY**

The owner of 1165 Highway 8, Flamborough has made an application to permanently close and purchase a portion of Concession 6 Road West, Flamborough abutting the south side of the property. The applicant proposes this closure in order to clean up title to lands currently being used by the owner of 1165 Highway 8, Flamborough. As there were no objections from internal staff or public utilities, and only one objection from an abutting landowner which has been addressed, staff support the closure and sale of the Subject Lands to the owner of 1165 Highway 8, Flamborough.

## **Alternatives for Consideration – Not Applicable**

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: The applicant has paid the Council approved user fee of \$4773.02. The Subject Lands will be sold to the owners of 1165 Highway 8, Flamborough, as determined by the Corporate Real Estate Office of the Planning and Economic Development Department, in accordance with the City of Hamilton Sale of Land Policy By-law 14-204.

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**Staffing:** An agreement to purchase the Subject Lands will be negotiated by the Corporate Real Estate Office 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 1165 Highway 8, Flamborough, pursuant to an agreement negotiated by the Corporate Real Estate Office of the Planning and Economic Development Department.

### **HISTORICAL BACKGROUND**

The Subject Lands form part of the original road allowance between Concessions 5 and 6 in the geographic township of Beverly. A portion of road allowance lands abutting the Subject Lands, being Part 1 on Plan 62R-13354, as shown on Appendix "A" attached to report PW23054, was closed by By-Law 95-65-R registered as Registered Instrument VM215791 in 1995 and transferred to the owner of 2124 Concession 6 Road West, Flamborough on October 25, 2019 via Registered Instrument WE1389869. On June 3, 2020, staff received an application from the owner of 1165 Highway 8, Flamborough to close and purchase the Subject Lands. There were no objections received from any City department, division, or public utility. We received an objection from one abutting landowner looking to protect future access over a portion of the Subject Lands. The applicant has agreed to allowing an easement over the southern portion of the Subject Lands as shown as Part 'B' on Appendix "C" to Report PW23054 which addresses the abutting landowners future access concern.

### **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 Division, and Environmental Services

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- Hamilton Emergency Services
- Corporate Services Department: Financial Planning, Administration and Policy
- 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.

The owner of 2124 Concession 6 Road West, Flamborough has advised that they will require easement protection over the southern portion of the Subject Lands as shown on Appendix “C” attached to Report PW23054, to maintain future access rights.

Notice of the proposal was sent to all abutting property owners of the Subject Lands, as shown on Appendix “B”, attached to Report PW23054 for comment. In this instance, there were 3 notices mailed, and the results are as follows:

In favour: 2

Opposed: 1

No comment: 0

We received an objection from the abutting landowner looking to gain access over a portion of the Subject Lands. The applicant agreed to allowing an easement over the southern portion of the Subject Lands as shown on Appendix “C” to Report PW23054 which addressed the abutting landowner’s future access concern.

### **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

As there were no objections from any City department, division, or public utility, and the objection from an abutting landowner has been addressed, staff are supportive of the closure and sale of the Subject Lands to the owner of 1165 Highway 8, Flamborough.

### **ALTERNATIVES FOR CONSIDERATION**

N/A

### **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to Report PW23054 – Aerial Drawing

Appendix “B” to Report PW23054 – Location Plan

Appendix “C” to Report PW23054 – Easement Location