



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

| | |
|---------------------------|---|
| TO: | Chair and Members Public Works Committee |
| COMMITTEE DATE: | September 30, 2024 |
| SUBJECT/REPORT NO: | Proposed Permanent Closure and Sale of a Portion of Road Allowance at 37 Mountain Avenue North, Stoney Creek (PW24056) (Ward 5) |
| WARD(S) AFFECTED: | Ward 5 |
| PREPARED BY: | Laura-Lynn Fernandes (905) 546-2424 Ext. 6164 |
| SUBMITTED BY: | Jackie Kennedy Director, Engineering Services Public Works / Engineering Services |
| SIGNATURE: |  |

RECOMMENDATION

- (a) That the applications of the owners of 40 Lake Avenue Drive and 42 Lake Avenue Drive, Stoney Creek, to permanently close and purchase a portion of the public highway at 37 Mountain Avenue North (“Subject Lands”), as shown on Appendix "A", attached to Report PW24056, 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 40 Lake Avenue Drive and 42 Lake Avenue Drive, Stoney Creek, as described in Report PW24056, 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 40 Lake Avenue Drive and 42 Lake Avenue Drive, Stoney Creek 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 owners of 40 Lake Avenue Drive and 42 Lake Avenue Drive, Stoney Creek, have separately made an application to permanently close and purchase a portion of the public highway at 37 Mountain Avenue North, Stoney Creek. The applicant at 42 Lake Avenue Drive initially applied to purchase the entire parcel; however, the City also received an application from the owner of 40 Lake Avenue Drive for a portion of the parcel. It was proposed to divide the parcel, giving equal frontage and access to Mountain Avenue North to each owner, and both applicants agreed to the division of the Subject Lands.

The owner of 40 Lake Avenue Drive proposes this closure in order to have an access point to the rear of their property for upkeep of the grounds and to create better curb appeal. The owner of 42 Lake Avenue Drive proposes this closure for the purpose of storage for their greenhouse. As there were no objections from any City department, division, or public utility, Planning and Economic Development Department (Cultural Heritage) is in favour, and there were no objections from any abutting landowners, staff

SUBJECT: Proposed Permanent Closure and Sale of Portion of Road Allowance at 37 Mountain Avenue North, Stoney Creek (PW24056) (Ward 5) - Page 3 of 5

are supportive of the closure and sale of the Subject Lands to the owners of 40 Lake Avenue Drive and 42 Lake Avenue Drive, Stoney Creek.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The applicants have each (?) paid the Council approved user fee of \$5,501.41. The Subject Lands will be sold to the owners of 40 Lake Avenue Drive and 42 Lake Avenue Drive, Stoney Creek, at fair market value, 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.

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 40 Lake Avenue Drive and 42 Lake Avenue Drive, Stoney Creek, pursuant to an agreement negotiated by the Corporate Real Estate Office of the Planning and Economic Development Department.

HISTORICAL BACKGROUND

The Subject Lands were transferred to The Corporation of the Town of Stoney Creek by Instrument HL134006, registered on July 19, 1960 for “lands dedicated for future public roadway”, and is shown on Registered Compiled Plan No. 1424 as Lot 62. On December 14, 2016, the City passed By-law No. 16-318 to incorporate the Subject Lands into Mountain Avenue North, which was registered on January 27, 2017. On August 23, 2022, staff received an application from the owner of 42 Lake Avenue Drive, to close and purchase the Subject Lands for the purpose of maintaining existing storage for their greenhouse.

On October 3, 2022, staff received another application from the owner of 40 Lake Avenue Drive for a portion of the Subject Lands for the purpose of having an access point to the rear of the property for upkeep of the grounds and to create better curb

appeal. Staff proposed a division of the Subject Lands to grant each owner equal frontage onto Mountain Avenue North. Despite multiple attempts to communicate and follow-up with the owner/agent of 42 Lake Avenue Drive regarding the division of the parcel, there was no response received. Consequently, both applications were placed on hold in January 2023.

Upon follow-up from the applicant at 40 Lake Avenue Drive in April 2024, further attempts to communicate with the greenhouse owner/agent at 42 Lake Avenue Drive were made as to the proposed division of the Subject Lands and whether they wished to proceed with their application, with no response.

Staff decided to proceed with the application process of both applications with the division of the Subject Lands with equal frontage. During the initial circulation stage of the process, staff received communications from the agent of 42 Lake Avenue Drive with confirmation to proceed with the application with the proposed division of the Subject Lands with equal frontage.

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, and Environmental Services
- 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. Planning and Economic Development Department (Cultural Heritage) is in favour.

No utility Company has advised that they will require easement protection.

**SUBJECT: Proposed Permanent Closure and Sale of Portion of Road Allowance
at 37 Mountain Avenue North, Stoney Creek (PW24056) (Ward 5) -
Page 5 of 5**

Notice of the proposal was sent to all abutting property owners of the Subject Lands, as shown on Appendix "B", attached to Report PW24056 for comment. In this instance, there were 2 notices mailed, and the results are as follows:

In favour: 0

Opposed: 0

No comment: 0

Staff did not receive any responses during the circulation period.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As there were no objections received from any City department, division, or public utility, and there were no objections received from any other abutting landowner, staff are in support of the closure and sale of the Subject Lands to the owners of 40 Lake Avenue Drive and 42 Lake Avenue Drive, Stoney Creek, as shown on Appendix "A", attached to Report PW24056.

ALTERNATIVES FOR CONSIDERATION

N/A

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PW24056 - Aerial Drawing

Appendix "B" to Report PW24056 - Location Plan