




CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	November 4, 2024
SUBJECT/REPORT NO:	Proposed Permanent Closure and Sale of a Portion of Sanatorium Road, Hamilton (PW24074) (Ward 14)
WARD(S) AFFECTED:	Ward 14
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 application of the owner of 801, 820, 828, 865 & 870 Scenic Drive, Hamilton (“Applicant”) to permanently close and purchase a portion of the road allowance abutting 801, 820, 828, 865 & 870 Scenic Drive (“Subject Lands”), as shown on Appendix “A” and Appendix “B”, attached to Report PW24074, 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 Applicant, as described in Report PW24074, 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 the Applicant, pursuant to an Agreement of Purchase and Sale

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- 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.
 - (viii) That the Applicant enter into an easement agreement over the northern portion of the Subject Lands, as shown on Appendix "C" attached to Report PW24074, in favour of the City for emergency services access until such time that a road is created to connect 828 Sanatorium Road, Hamilton, to Scenic Drive, Hamilton;
 - (ix) That the Applicant enter into an easement agreement over the northern portion of the Subject Lands, as shown on Appendix "C" attached to Report PW24074, in favour of the City to maintain the existing culvert and to allow pedestrians to connect with the existing trails within the escarpment until such time that a secondary access is created and the creek is dedicated back to the City in accordance with the conditions outlined in the approved draft plan of subdivision 25T-202008;
 - (x) That the Applicant dedicate a portion of the Subject Lands, being the northern portion in Block 1 and a small portion in Block 4 on draft plan of subdivision 25T-202008, shown on Appendix "D" attached to Report PW24074, back to the City of Hamilton as open space;
 - (xi) That the #33 Sanatorium and #41A Mohawk HSR buses be re-routed to the satisfaction of the Manager, Transit Planning and Infrastructure;

- (xii) That the Applicant abides by the Ontario Land Tribunal (OLT) special conditions in the OLT decision Case No. OLT-21-001169.

EXECUTIVE SUMMARY

The owner of 801, 820, 828, 885, 865 & 870 Scenic Drive, Hamilton, has made an application to permanently close and purchase a portion of Sanatorium Road, Hamilton. The Applicant proposes this closure pursuant to Ontario Municipal Board (OMB) decision file No. PL100691, By-Law No. 12-166. The Applicant proposes this closure in order to facilitate comprehensive development of a condominium site associated with planning application ZAC-20-041, OHOPA-20-026, and draft plan of subdivision 25T-202008. The application was circulated and received an objection from Hamilton Fire wanting to ensure access was maintained to the existing building at 828 Sanatorium Road, Hamilton. This concern has been addressed through recommendations within report PW24074. As the Applicant is the only abutting landowner, there was no external circulation for this application. As there were no objections that could not be addressed, staff are supportive of the closure and sale of the Subject Lands to the Applicant.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

- Financial:** The Applicant has paid the Council approved user fee of \$4,367.00. The Subject Lands will be sold to the owners of Applicant, 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 Applicant, pursuant to an agreement negotiated by the Corporate Real Estate Office of the Planning and Economic Development Department.

HISTORICAL BACKGROUND

The Subject Lands form a portion of Sanatorium Road as established by Plan 575 in 1915 as Mountain View Boulevard and name changed to Sanatorium Road by By-Law 7871-1956, registered as Instrument BL1805 in 1956 and partially dedicated as a public highway by By-Law 66-244 registered as Instrument AB25862 by the City of Hamilton in 1966.

The following was derived from OMB file No. 100691. Subsequent the purchase of this property by the Applicant, in 2007, the Applicant submitted an application for a development consisting of town homes and apartment buildings. Existing heritage buildings would be retained and used if possible. The original application proposed buildings with up to 10 storeys. Various studies were commissioned to support the proposed development, including planning, transportation, visual impact assessments, archaeological, heritage, phase 1 environmental site assessments and soils investigations. The proposal was modified, and it was determined that there would be no servicing constraints and no traffic issues that would restrict development on the site. Transit is available to the site. The Applicant undertook a series of public meetings and consultations on the proposed development. Consultation with the public indicated that the public wanted very little to no development at the site.

On June 30, 2010, the Applicant filed an appeal with the Ontario Municipal Board (OMB) and the appeal was allowed by the OMB's decision made on June 22, 2012.

On October 26, 2016, in order to facilitate development plans, the Applicant applied to close and purchase the Subject Lands from the City. At that time, they had yet to submit any development related applications, so their road closure application was put on hold.

On November 30, 2020, Public Works staff were advised by the Applicant that Zoning Amendment application ZAC-20-041, Official Plan Amendment application OHOPA-20-026, and draft plan of subdivision 25T-202008 had all been submitted.

On May 27, 2021, the Applicant filed an appeal with the Ontario Land Tribunal (OLT) and the appeal was allowed by the OLT's decision made on June 13, 2024. The applications were approved, and the Official Plan Amendment is Urban Hamilton Official Plan Amendment No. 203.

As such, staff are now proceeding forward with the Applicant's application for closure and purchase of the Subject Lands.

As there were no objections from any City Departments, Divisions, or Public Utilities that could not be addressed through recommendations through report PW24074, and the

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Applicant is the only abutting landowner, staff are supportive of the closure and sale of the Subject Lands to the Applicant.

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

Hamilton Water and Hamilton Fire have advised that they require an easement for access along the northern portion of the Subject Lands as shown on Appendix "C" attached to report PW24074.

Bell and Alectra Utilities have advised that they will require easement protection.

As the Applicant is the only abutting landowner, there was no required external circulation.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As there were no objections received from any City department, division, or public utility that could not be addressed through recommendations through report PW24074, and the Applicant is the only abutting landowner, staff are in support of the closure and sale of the Subject Lands to the Applicant, as shown on Appendix "A", attached to Report PW24074.

ALTERNATIVES FOR CONSIDERATION

N/A

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PW24074 - Aerial Drawing

Appendix "B" to Report PW24074 - Location Plan

Appendix "C" to Report PW24074 - Easement Sketch

Appendix "D" to Report PW24074 - Draft Plan of Subdivision 25T-202008