



City of Hamilton Report for Consideration

To: Chair and Members
Public Works Committee

Date: February 24, 2025

Report No: PW25002

Subject/Title: Proposed Permanent Closure and Sale of a Portion of
Untravelled Road Allowance Between Concessions 1 and 2,
Lynden

Ward(s) Affected: Ward 12

Recommendations

1. That the joint application of the owners of 2574 Concession 2 Road West, 2606 Concession 2 Road West, Lynden, and 124 Harrisburg Road, Paris, to permanently close and purchase a portion of the untravelled road allowance abutting 2574 Concession 2 Road West, 2606 Concession 2 Road West, Lynden, and 124 Harrisburg Road, Paris ("Subject Lands"), as shown on Appendix "A", attached to Report PW25002, **BE APPROVED**, subject to the following conditions:
 - 1.1. 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;
 - 1.2. 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 2574 Concession 2 Road West, 2606 Concession 2 Road West, Lynden, and 124 Harrisburg Road, Paris, as described in Report PW25002, in accordance with the City of Hamilton Sale of Land Policy By-law 14-204;

- 1.3. The City Solicitor **BE AUTHORIZED** to complete the transfer of the Subject Lands to 2574 Concession 2 Road West, 2606 Concession 2 Road West, Lynden, and 124 Harrisburg Road, Paris, 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;
- 1.4. 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;
- 1.5. That the City Solicitor **BE AUTHORIZED** to amend and waive such terms as they consider reasonable to give effect to this authorization and direction;
- 1.6. That the Public Works Department **BE REQUIRED** to publish a 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;
- 1.7. 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.

Key Facts

- The owners of 2574 Concession 2 Road West, 2606 Concession 2 Road West, Lynden, and 124 Harrisburg Road, Paris, have made an application to permanently close and purchase a portion of the untravelled road allowance abutting their properties.
- The applicants propose this closure to facilitate land assembly and cleanup historical title issues.
- There were no objections from any City department, division, or public utility. Abutting landowners have raised objections to the proposed road closure as their only means of access to their lands as a secondary point of access if a catastrophic event removes their existing easement access to the existing travelled road known as Concession 2 Road West.
- However, due to the presence of Fairchild Creek meandering through the subject road allowances and an assessment by the Grand River Conservation Authority, the southern portions of the Subject Lands were identified as wetlands with associated floodplain and slope hazards, as shown on Appendix "C" to Report PW25002. As a result, the objections received lack substantial justification.

- Consequently, staff are supportive in proceeding with the closure and sale of the Subject Lands to the owners of 2574 Concession 2 Road West, 2606 Concession 2 Road West, Lynden, and 124 Harrisburg Road, Paris.

Financial Considerations

- Financial:** The applicants have jointly paid the Council approved user fee of \$5,270.79FA. The Subject Lands will be sold to the owners of 2574 Concession 2 Road West, 2606 Concession 2 Road West, Lynden, and 124 Harrisburg Road, Paris, 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 2574 Concession 2 Road West, 2606 Concession 2 Road West, Lynden, and 124 Harrisburg Road, Paris, pursuant to an agreement negotiated by the Corporate Real Estate Office of the Planning and Economic Development Department.

Background

The Subject Lands were originally designated as a road allowance as laid out in 1793 within the former Beverly Township, which was organized under the Single Front Township system. This system included reserved road allowances every six lots and at each concession line. The original road allowance between Concessions 1 and 2 contains Fairchild Creek within it and appears to have never been travelled by evidence of a travelled road north, in lieu of the Subject Lands, known as Concession 2 Road West, which historically has been adopted as common passage around Fairchild Creek. On February 23, 2024, staff received an application from the lawyer representing the owners of 2574 Concession 2 Road West, 2606 Concession 2 Road West, Lynden, and 124 Harrisburg Road, Paris, to close and purchase the Subject Lands to support land assembly and cleanup title. Upon issuing the external circulation to adjacent landowners, staff received objections citing concerns regarding existing flooding on their properties, maintenance responsibilities for a private laneway and bridge that provide right-of-way access to an abutting owner without direct access to the travelled road, and potential loss of future access to a public road allowance, with the belief that the Subject Lands could eventually be used as an alternate means of access.

Additionally, there were concerns that the proposed closure was only partial rather than extending the full length of the road allowance. In response, staff conducted a comprehensive investigation of the land conditions and consulted with the Grand River Conservation Authority (GRCA), which confirmed their assessment of the Subject Lands and identified these lands as wetlands with associated floodplain and slope hazards, and further indicated that the likelihood of establishing a travelled public highway along the Subject Lands is highly improbable.

An abutting landowner raised concerns with regards to flooding events of Fairchild Creek during heavy rains and they concluded that the flooding is due to an existing culvert under the former Canadian National Railway Lands that was transferred to The Corporation of the Town of Flamborough by Instrument LT506693 dated June 19th, 1998. This particular culvert is not within the Subject Lands; therefore, this concern is outside of the recommendation being considered within this report.

Analysis

As there were no internal objections received from any City department, division, or public utility, and given that the objections from adjacent landowners were found to lack substantive justification upon thorough review of the lands, staff support proceeding with the closure and sale of the Subject Lands. The Grand River Conservation Authority's detailed assessment classified the Subject Lands as wetlands with associated floodplain and slope hazards, making future construction of a public highway along these lands highly unlikely. Staff recommend closing and selling the Subject Lands to the owners of 2574 Concession 2 Road West, 2606 Concession 2 Road West, Lynden, and 124 Harrisburg Road, Paris, as shown in Appendix "A" attached to Report PW25002.

Alternatives

Given the environmental conditions of the lands, coupled with the absence of any plans or likelihood of constructing a travelled road through the Subject Lands and the remaining untravelled road allowance to the east, an alternative option for consideration is proposed, as shown in Appendix "D" attached to Report PW25002. It is recommended that the entire stretch of the untravelled road allowance be closed, while retaining the remaining portion by the City's Corporate Real Estate Office, until such a time when adjacent landowners may express interest in acquiring a portion of the land.

Relationship to Council Strategic Priorities

3. Responsiveness & Transparency

- 3.1. Prioritize customer service and proactive communication: Emphasize exceptional customer service and proactive communication. The procedure for permanent road, alley, and walkway closures is a public service that allows

individuals to apply and purchase a portion of public highway through an application submission process.

Previous Reports Submitted

None.

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
- Grand River Conservation Authority

There were no objections received from any public utilities, City departments and divisions.

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

The Grand River Conservation Authority conducted an assessment of the lands, which identified the lands to be wetlands with associated floodplain and slope hazards due to the presence of Fairchild Creek within the road allowance.

Notice of the proposal was sent to all abutting property owners of the Subject Lands, as shown on Appendix "B", attached to Report PW25002 for comment. In this instance, there were 11 notices mailed, and the results are as follows:

In favour: 0

Opposed: 4

No objection: 1

Staff received objections to the closure from three abutting owners and an objection to the partial closure only of the road allowance from one abutting owner, preferring a full closure and sale of the entire road allowance. One abutting owner had no objection to the closure.

Appendices and Schedules Attached

Appendix A: Aerial Drawing

Appendix B: Location Plan

Appendix C: GRCA Assessment Maps

Appendix D: Alternative Plan for Consideration

Prepared by:

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Public Works, Engineering Services, Geomatics & Corridor
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**Submitted and
recommended by:**

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Public Works, Engineering Services