

**CITY OF HAMILTON**

**PUBLIC WORKS DEPARTMENT**  
**Operations and Waste Management Division**

<b>TO:</b> Chair and Members Public Works Committee	<b>WARD(S) AFFECTED:</b> WARD 12
<b>COMMITTEE DATE:</b> April 4, 2011	
<b>SUBJECT/REPORT NO:</b> Proposed Permanent Closure and Transfer of a Portion of Road Allowance Abutting 100 Legend Court, Ancaster (PW11023) - (Ward 12)	
<b>SUBMITTED BY:</b> Gerry Davis, CMA General Manager Public Works Department	<b>PREPARED BY:</b> Marilyn Preston (905) 546-2424, Extension 4298
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That the application of Costco Wholesale Canada Ltd. to permanently close and purchase a portion of the road allowance abutting the property at 100 Legend Court, Ancaster, be approved, subject to the following conditions:

- (a) That the City Solicitor be authorized and directed to prepare a by-law to permanently close the highway;
- (b) That the appropriate by-law be introduced and enacted by Council;
- (c) That the Economic Development and Real Estate Division of the Planning and Economic Development Department be authorized and directed to sell this closed highway in accordance with the Procedural By-law for the Sale of Land, By-law No. 04-299;
- (d) That the City Solicitor be authorized and directed to register a certified copy of the by-law permanently closing the highway in the proper land registry office;
- (e) That the by-law permanently closing the highway does not take effect until a certified copy of the by-law is registered in the proper land registry office;
- (f) That the Public Works Department publish a notice pursuant to Section 34 of the Municipal Act 2001, S.O. 2001, c. 25, as amended, of the City's intention to pass the by-law.

**EXECUTIVE SUMMARY**

As a requirement of the Site Plan approval for a proposed Costco Wholesale Canada Ltd. ("Costco") at 100 Legend Court in Ancaster (Location Plan, Appendix "A" to Report PW11023), an application was submitted to close and purchase a portion of the Legend Court road allowance. In exchange for a small portion of the Legend Court road allowance, Costco will construct a road connecting Legend Court to Martindale Crescent. The road will be built to City standards at no expense to the City. This new road segment will be added to the inventory of road assets the City currently maintains. A sketch of the proposed closure area has been attached as Appendix "B" to Report PW11023. In addition, the proposed Site Plan showing the connection and site reconfiguration is attached for reference as Appendix "C" to Report PW11023.

During the construction phase, Costco will need to enter into an encroachment agreement with the City to allow a small portion of the new building to encroach onto Legend Court until the road closure is complete. Once the land transfer has been completed, Costco will be required to discharge the encroachment agreement from title as the building will be located on private property.

There were no negative comments received from the notices sent to a 400' (121.9m) radius of the neighbourhood. As the City will no longer require the cul-de-sac on Legend Court once the new road is conveyed and as there will be no expense for the City, Operations and Waste Management staff support the proposal.

**Alternatives for Consideration - See Page 4**

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS**

**Financial:** The applicant has paid the applicable user fee of \$3,282.05. The lands will be transferred for a nominal fee, in accordance with the conditions of Site Plan approval which require Costco to construct a new road at no cost to the City. The new road segment will be owned and maintained by the City. The maintenance costs are minimal and can be accommodated within the existing operating budget.

**Staffing:** Agreements for Costco Wholesale Canada Ltd. to purchase the subject lands will be negotiated by the Economic Development and Real Estate Division.

**Legal:** The City Solicitor will prepare the by-law to permanently close the subject lands and will register this by-law in the Registry Office once Council has approved it. The City Solicitor will complete the transfer of the subject lands to the abutting owners, pursuant to an agreement of purchase and sale or Offer to Purchase, as negotiated by the Economic Development and Real Estate Division.

## **HISTORICAL BACKGROUND**

Through the site plan process the City agreed to convey a portion of the northern part of the Legend Court cul-de-sac to Costco. In exchange for the lands, the City would receive a new road connecting Legend Court to Martindale Crescent at no cost to the City. To complete the transaction, the road must be permanently closed and approved for sale by City Council.

## **POLICY IMPLICATIONS**

A by-law must be passed to permanently close the cul-de-sac lands in accordance with the Municipal Act.

The closure and sale of the lands will fulfil the priorities established in the Public Works Business Plan within “Communities” as it as it reflects our desire to “establish mutually beneficial charters with external customers”.

## **RELEVANT CONSULTATION**

Notice was sent to the one property owner within a 400’ (121.9m) radius of the subject property and no negative comments were received.

The following City staff were consulted on this application and conveyed no negative comments on the proposed road closure:

- Planning and Economic Development Department: Development Engineering, Building Services, Economic Development and Real Estate and Planning
- Public Works Department: Environment and Sustainable Infrastructure, Transportation, Energy and Facilities and Operations and Waste Management
- Hamilton Emergency Services
- Corporate Services Department: Budgets and Finance Division
- Ward Councillor

The Infrastructure and Source Water Planning Section of the Public Works Department advises that an easement with the new owner will be required for water and sewer infrastructure.

During the construction phase, the Operations and Waste Management Division will require Costco to enter into an encroachment agreement with the City to allow a small portion of the new building to encroach onto the Legend Court cul-de-sac. Once the land transfer has been completed, Costco will be required to discharge the encroachment agreement from title as the building will then be located on private property.

Public Utilities including Bell, Union Gas and Hydro One were notified of the proposal and no objections were received. Should the lands be transferred to Costco, Bell will require an easement from Costco for their telecommunications facilities. Union Gas

**SUBJECT: Proposed Permanent Closure and Transfer of a Portion of Road Allowance Abutting 100 Legend Court, Ancaster (PW11023) - (Ward 12) - Page 4 of 4**

---

advises that they may have a conflict with the existing gas service with the new road. Costco will be required to comply with any requirements of Union Gas as a condition of approval of the road closure. Hydro One advises that they may require an easement with the new owner.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

The closure of a portion of the Legend Court road allowance is required to facilitate Site Plan approval of the new Costco development. As the City will receive a new road at no cost in exchange for the portion of road allowance, the permanent closure and sale makes good financial sense.

The construction of a new road linking Legend Court to Martindale Crescent enhances the existing road network and improves connectivity for residents travelling from one section of the shopping complex to another. The newly constructed road will also provide a single point of access to the parking area adjacent to the re-developed Costco and remove the multiple access points that currently exist on this site.

**ALTERNATIVES FOR CONSIDERATION**

As the road closure is required for Site Plan approval of the relocated Costco and as the City will benefit from the development of a new road at no cost to the City, there are no alternatives for consideration.

**CORPORATE STRATEGIC PLAN**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

***Financial Sustainability***

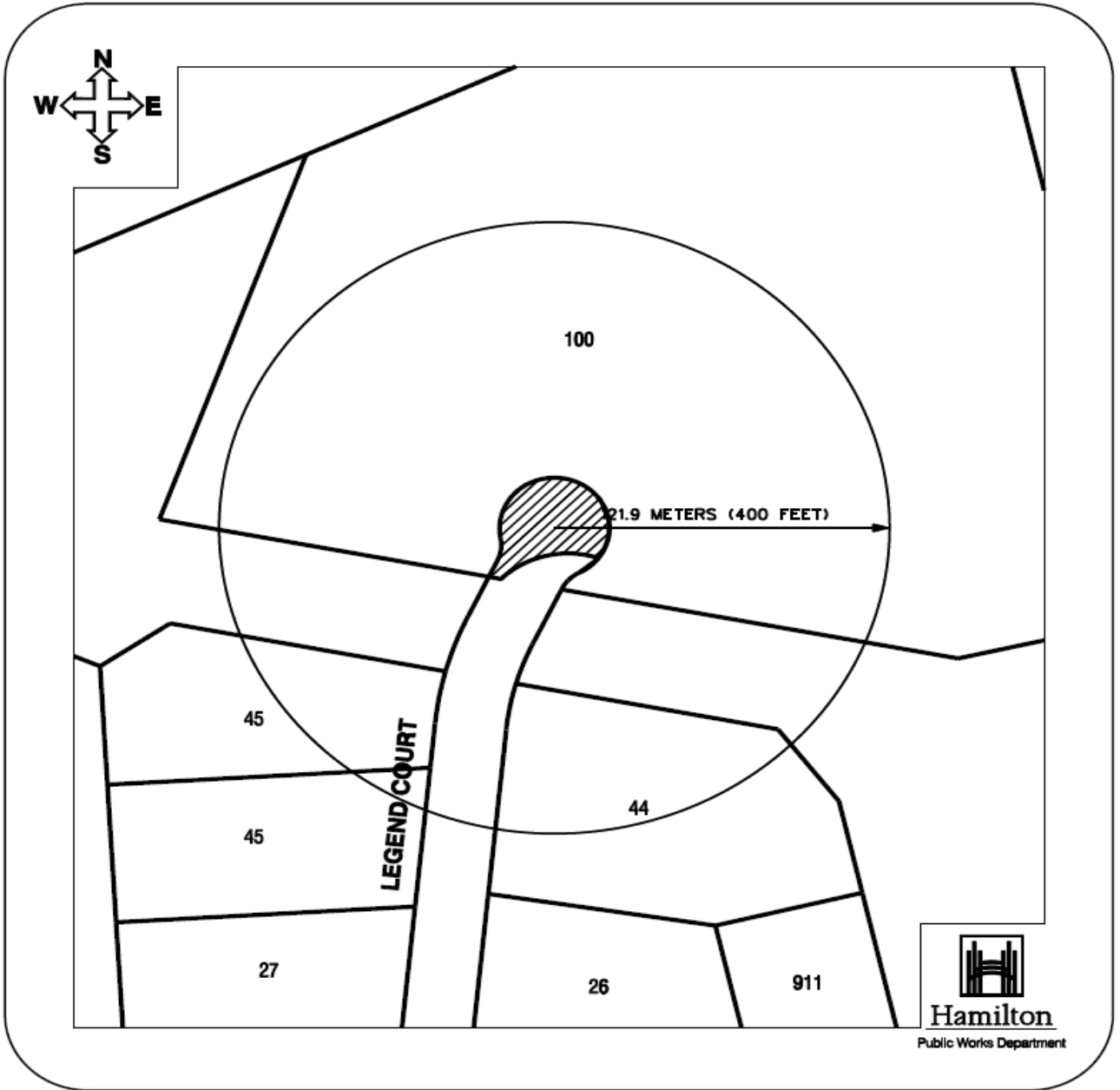
- ◆ Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative and cost effective manner

***Healthy Community***

- ◆ Plan and manage the built environment

**APPENDICES / SCHEDULES**

Appendix "A" - Location Plan  
Appendix "B" - Aerial Plan  
Appendix "C" - Site Plan



**LOCATION PLAN**

PROPOSED CLOSURE OF  
CUL-DE-SAC AT

**100 LEGEND COURT**

CITY OF HAMILTON  
PUBLIC WORKS DEPARTMENT

**LEGEND**

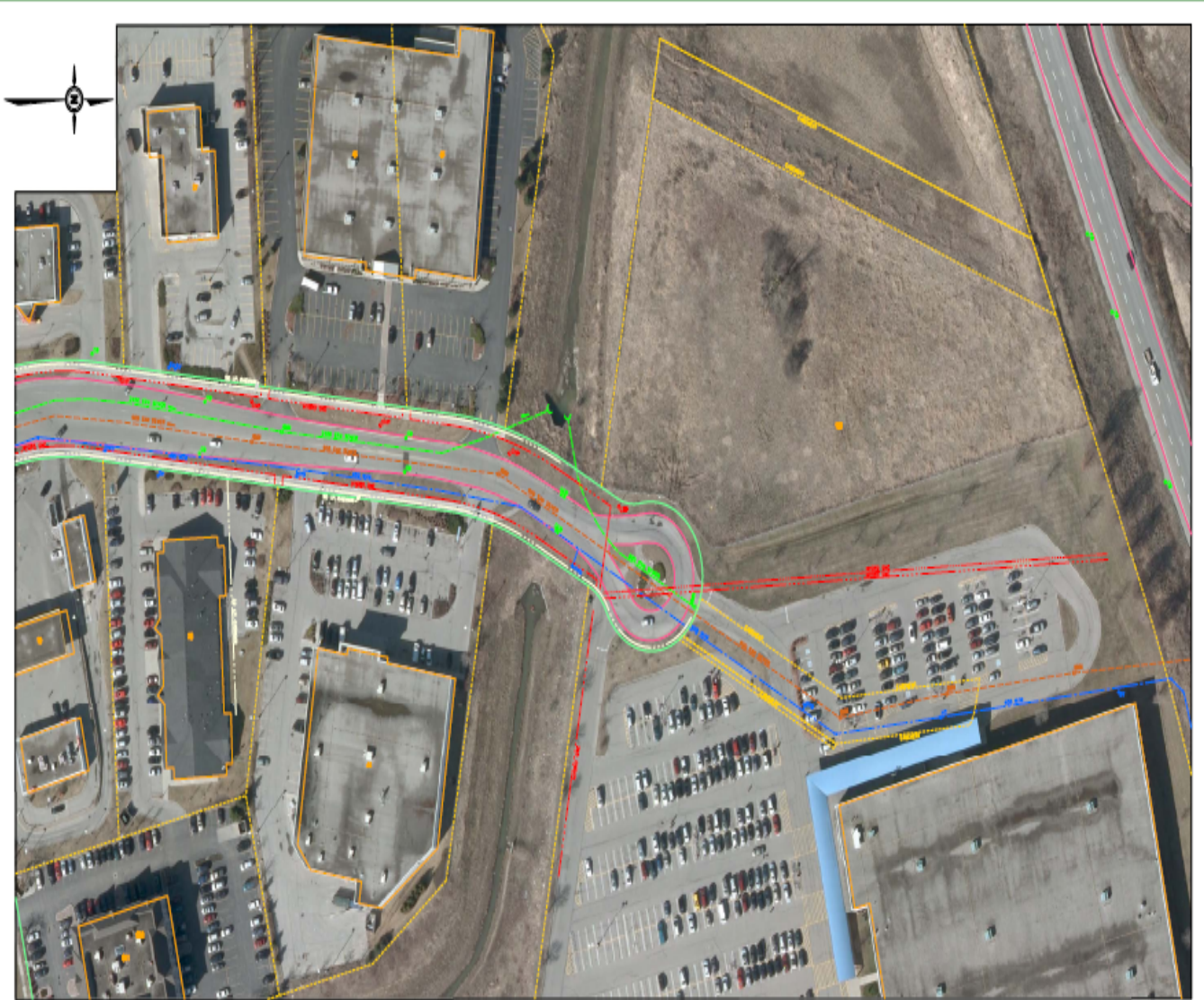


**SUBJECT LANDS**

DATE: January 13, 2011

Not to Scale

APPENDIX "B"  
REPORT PW11023



PROPOSED CLOSURE OF  
CUL-DE-SAC AT  
100 LEGEND COURT  
Surveys & Technical Services  
Public Works Department

NTS  
01-24-2011  
Sketch By: MM

