

**CITY OF HAMILTON**

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

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| <b>TO:</b> Chair and Members<br>Public Works Committee  | <b>WARD(S) AFFECTED:</b> Ward 11                                      |
| <b>COMMITTEE DATE:</b> June 4, 2012   |   |
| <b>SUBJECT/REPORT NO:</b><br>Proposed Permanent Closure and Sale of a Portion of Road Allowance being Part 2 (Unnamed Road Allowance) and Part 5 (Elizabeth Street) on Plan 62R-14865, Stoney Creek (PW12046) - (Ward 11) |   |
| <b>SUBMITTED BY:</b><br>John Mater, C.E.T.<br>Acting General Manager<br>Public Works Department   | <b>PREPARED BY:</b><br>Angela Doyle<br>(905) 546-2424, Extension 1332 |
| <b>SIGNATURE:</b>   |   |

**RECOMMENDATION**

That the portion of unopened road allowance being Part 2 (unnamed road allowance) and Part 5 (Elizabeth Street) on Plan 62R-14865 be permanently closed and transferred to Movengo Corp. the adjacent owner of Parts 1, 3 and 4 on Plan 62R-14865, as shown on Appendix B attached to Report PW12046, 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;

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- (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**

An application was received from Movengo Corp. to permanently close the portion of unopened road allowance being Part 2 (unnamed road allowance) and Part 5 (Elizabeth Street) on Plan 62R-14685. Movengo Corp. is the owner of all lands abutting the unopened road allowance.

The internal stakeholder circulation did not result in any opposition to the proposed closure. The Building Services Division directed that the property must comply with the Stoney Creek Zoning By-Law 3692-92. The Planning Division is in support of the proposed road allowance closure but cautioned that the property has been determined to be of archaeological potential and that an archaeological assessment must be conducted prior to any work being undertaken. Any archaeological report is to be submitted to the City of Hamilton concurrent with submission to the Ministry of Tourism, Culture & Sport.

There were no negative comments received from the notices sent to property owners within a 400 ft (121.9 m) radius of the neighbourhood.

**Alternatives for Consideration - See Page 4**

### **FINANCIAL / STAFFING / LEGAL IMPLICATIONS**

**Financial:** The owner of Parts 1, 3 and 4 on Plan 62R-14865, Hamilton, who submitted the application, has paid a user fee of \$3,282.05. The lands will be transferred to the abutting owner for fair market value, as determined by the Economic Development and Real Estate Division.

**Staffing:** Agreements 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**

The owner of Parts 1, 3 and 4 on Plan 62R-14865 has applied to close and purchase the portion of unopened road allowance abutting the property. The road allowance, being Part 2 (unnamed road allowance) and Part 5 (Elizabeth Street) on Plan 62R-14865, had been dedicated as road allowance pursuant to Plan 310 but was never

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opened. The closure of the unopened road allowance is required to facilitate Site Plan Approval (FC-09-217) by the Planning & Economic Development Department for the development of a commercial business on the property.

Operations and Waste Management staff support the closure and sale of the road allowance to the owner of Parts 1, 3 and 4 on Plan 62R-14865.

### **POLICY IMPLICATIONS**

A by-law must be passed to permanently close the 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 reflects our desire to “establish mutually beneficial charters with external customers”.

### **RELEVANT CONSULTATION**

Notice was circulated to property owners within a 400 ft (121.9 m) radius of the subject property as shown on Appendix A attached to Report PW12046. Of the six notices sent, zero respondents were opposed.

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

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

The Building Services Division directed that the property must conform to the Stoney Creek Zoning By-Law 3692-92. The Economic Development & Real Estate Division has directed that the lands be sold to the adjoining owners. The Planning Division has indicated that the application to purchase and close a portion of unnamed road allowance and Elizabeth Street would allow for more efficient future development. It was also noted that the property has been determined to be of archaeological potential and that an archaeological assessment must be conducted prior to any work being undertaken. All archaeological reports are to be submitted to the City of Hamilton concurrent with submission to the Ministry of Tourism, Culture & Sport.

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**ANALYSIS / RATIONALE FOR RECOMMENDATION**

Operations & Waste Management staff support the proposed closure and transfer of the unopened road allowance directly abutting Parts 1, 3 and 4 on Plan 62R-14865. The closure of the unopened road allowance is required to facilitate Site Plan Approval (FC-09-217) for a commercial business on the property. Movengo Corp. is the owner of all lands abutting the proposed closure; closure and transfer of the unopened road allowance will result in a continuous property line for Movengo Corp. Closure and transfer of the property to Movengo Corp. will result in revenue generation for the City of Hamilton. Finally, the unopened road allowance became redundant when the Service Road was created.

**ALTERNATIVES FOR CONSIDERATION**

Alternatively, the unopened road allowance could be retained by the City of Hamilton. This alternative would not facilitate proposed development and would not generate revenue from the sale of the lands.

**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

***Healthy Community***

- ◆ Plan and manage the built environment

**APPENDICES / SCHEDULES**

Appendix A - Location Plan

Appendix B - Proposed Road Closure Map




**LOCATION PLAN**

PROPOSED ROAD CLOSURE

**ELIZABETH STREET**

CITY OF HAMILTON  
PUBLIC WORKS DEPARTMENT

**LEGEND**



**SUBJECT LANDS**

DATE: January 19, 2012      Not to Scale

REFERENCE FILE NO : PW12\_



Hamilton

PROPOSED ROAD ALLOWANCE CLOSURE AT  
ELIZABETH STREET

Surveys & Technical Services  
Public Works Department

NTS  
01-19-2012  
Sketch By: MM