TO: Chair and Members
   Economic Development and Planning Committee

WARD(S) AFFECTED: WARD 5

COMMITTEE DATE: July 5, 2010

SUBJECT/REPORT NO:
Sale of City Surplus Lands - 4 Fifth Avenue, Hamilton Beach (PED10154) (Ward 5)

SUBMITTED BY: Tim McCabe
   General Manager
   Planning and Economic Development Department

PREPARED BY: Helene Marcotte
   (905)546-2424, ext. 7021
   Bill Farkas
   (905)546-2424, ext. 7019

SIGNATURE:

RECOMMENDATION:

(a) That consistent with the Real Estate Portfolio Management Strategy that City Council’s approval be given for the sale at fair market value on the open market of the City’s surplus lands at 4 Fifth Avenue as a residential building lot, being Parts 2 and 4 on Plan 62R16372, having a combined area of 391.6 square metres (4215.1 square feet) as shown on Appendix “A” and “B” attached to Report PED10154;

(b) That the Public Works section rescind Item 6.1 of the Public Works Committee Report 07-002 to permanently close a portion of the public unassumed alley at the rear of 825 and 831 Beach Boulevard that was approved by Council on February 14, 2007;

(c) That Legal Services staff be directed to correct title of the private laneway adjacent to 4 Fifth Avenue by transferring Part 1 on Plan 62R16372, having an area of 15.6 square metres (167.9 square feet) to the owner of 831 Beach Boulevard at no cost and Part 3 on Plan 62R16372, having an area of 48.6 square metres (523.1 square feet) to the owner of 825 Beach Boulevard at a no cost.
EXECUTIVE SUMMARY

The purpose of this report is to request Council’s approval to sell the surplus lands known as 4 Fifth Avenue at fair market value on the open market as a residential building lot and to correct title of the private laneway adjacent to 4 Fifth Avenue by transferring Part 1 on Plan 62R16372, to the owner of 831 Beach Boulevard at no cost and Part 3 on Plan 62R16372, to the owner of 825 Beach Boulevard at a no cost, and to rescind Item 6.1 of the Public Works Committee Report 07-002 to permanently close a portion of the public unassumed alley at the rear of 825 and 831 Beach Boulevard that was approved by Council on February 14, 2007. Based on paper title and occupational title it is the opinion of the Public Works Department, Surveys and Technical Services Section, that there was never a public lane between 831 and 825 Beach Boulevard as the City of Hamilton has no interest in Parts 1 and 3 on Plan 62R-16372.

Alternatives for Consideration – See Page 4

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: The fair market value of the subject property as a residential building lot will increase revenues, generate employment opportunities, and increase property tax revenues.

Staffing: There are no identified staffing implications as a result of this report.

Legal: Legal Services would be required to work with the Real Estate Section to complete the disposal of the property and the transfer of the private laneway to the abutting land owners, at no cost.

HISTORICAL BACKGROUND (Chronology of events)

On June 27, 2000, City Council approved Item 5 of Report 13-00 of the Finance and Administration Committee declaring the subject lands surplus to the requirements of the City.

On June 21, 2002, staff listed the subject property with John W. Harvey Real Estate Co. Ltd. for the asking price of $43,000. Due to neighbouring and Councillor concerns staff removed the listing from the open market. The abutting neighbours at 825 and 831 Beach Boulevard expressed interest in acquiring the subject lands to merge with their existing properties.

On August 23 and 25, 2002, written confirmation had been received from the owners of 831 Beach Boulevard and 825 Beach Boulevard confirming their interest in the acquisition of the city land based on its current market value as a residential building lot.
together with the current local improvement charges levied against the lot. The agreed upon and acknowledged price at this time for each owner was $33,800, representing the fair market value of the land at $65,000 and local improvement charges of $2,658.43, for a total price of the entire lot being $67,658.00. On the basis of the foregoing in September, 2002, the Real Estate section requested Public Works to initiate the stop up, close and sale of the unassumed lane of the lakefront property and to move forward with registering a reference plan. Plan 62R-16372 was registered on January 20, 2003.

With the process in place, staff continued to communicate and exchanged information with the abutting land owners. Staff's correspondence of June 21, 2005 to the owners requested confirmation to their continued interest and that the properties will be sold at fair market value which will be determined at the time of sale. Receipt was acknowledged in June 2005 by both parties that each party continued to express their interest in the land. On July 8, 2005 written confirmation had been sent to the respective parties acknowledging their interest and confirming that upon receipt of confirmation that the alley has been closed, a copy of the Offer to Purchase will be prepared and forwarded for execution.

On February 14, 2007, Council approved Item 6.1 of the Public Works Committee Report 07-002 to permanently close a portion of the public unassumed alley at the rear of 825 and 831 Beach Boulevard.

Due to ongoing conflicts, staff continued to research the property title going back as far as 1906. Although the face of the plan showed Parts 1 and 3 as a public lane, evidence revealed that the right-of-way was created on April 10, 1906 as a private lane not a public lane and was to be used only by one of the private land owners to gain access to the water. Unfortunately, the legal text was omitted from all future documents but the physical occupancy of the two parts have always been fenced off and included with the abutting lands being 825 and 831 Beach Boulevard.

Staff will correct title of Parts 1 and 3 on Plan 62R-16372 by transferring Part 1 which has an area of 15.6 square metres (167.9 square feet) to the land owner of 831 Beach Boulevard and Part 3 which has an area of 48.6 square metres (523.1 square feet) to the owner of 825 Beach Boulevard.

On November 24, 2004, City Council approved The Real Estate Portfolio Strategy and Consolidation of the Policy, Procedures and Disposal By-law (PD04303) which details a revenue maximization strategy to assist staff in the disposal of city owned lands.

A planning review was completed on January 4, 2010. The highest and best use for the property was determined to be a single detached residential building lot. An internal appraisal was completed on March 4, 2010 estimating the market value of $132,000.
Having done due diligent and using the approved guidelines, staff is ready to move forward with the sale of the subject lands on the open market at fair market value.

On May 14, 2010 at the request of the Ward 5 Councillor, a meeting had been convened with the land owners and staff to discuss the sale of the city owned parcel and property title issues. At this meeting the parties had continued to express an interest in the land based on the fair market value set in 2002. Staff’s position in light of Council’s approved policies is that real property assets shall be sold at fair market value as a residential building lot. As time had elapsed to the point where staff have completed all due diligence and it is the will of Council to entertain a sale to the abutting owners, that the fair market value should be reflected in today’s market value and not 2002 land values.

POLICY IMPLICATIONS

This recommendation is consistent with the Real Estate Management Portfolio Strategy Plan as approved by City Council on November 24, 2004, and the “Procedural By-law for the Sale of Land”, By-law 04-299 to maximize revenues.

RELEVANT CONSULTATION

The Real Estate Section completed a circulation to all City Departments requesting comments and received no concerns or objections regarding disposition of the parcel. Planning staff has indicated that the highest and best use for the parcel is residential development.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Allowing the sale of the surplus land would allow Real Estate staff to proceed with disposing of the property on the open market, increasing revenues and maximizing future property tax revenues.

ALTERNATIVES FOR CONSIDERATION:

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Should Council not approve the sale of the subject property to be sold on the open market at fair market value, then, consideration should be given to selling the parcel at fair market value to the two abutting owners on the following conditions:
(a) The purchaser acknowledges and agrees that the lands being sold pursuant to the Offer shall be registered in the same name and title of the current land holdings municipally known as 831 and 825 Beach Boulevard, Hamilton.

(b) It is understood and agreed that the closing of the respective Offers to Purchase shall be completed concurrently and contemporaneously with the Offers to Purchase for Parts 3 and 4 on Plan 62R-16372 by the owner of 825 Beach Boulevard, Hamilton and for Parts 1 and 2 on Plan 62R-16372 by the owner of 831 Beach Boulevard, Hamilton, failing which, the Offers shall be terminated, null and void and of no further force and effect.

(c) In the event the Offers become terminated, that the Real Estate Section of the Economic Development and Real Estate Division of the Planning and Economic Development Department, be authorized and directed to sell the subject lands on the open market at fair market value as a residential building lot, in accordance with the “Procedural By-law for the Sale of Land”, being By-Law 04-299.

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS** (for Recommendation(s) only)

**Financial:** The City of Hamilton would still benefit from selling the parcel at market value but it would not receive additional tax revenue in the range of $3,000 - $4,000 from the construction of a new house.

Since the lands being sold would be registered in the same name and title of the owners’ land holdings tax increases would be based on a minimal incremental value of the two properties’ assessed value, therefore, a combined increase of $2,230.32 in tax revenues would be realized.

**Staffing:** There are no staffing implications arising from this recommendation.

**Legal:** Legal Services will assist Real Estate staff in completing the sale.

**CORPORATE STRATEGIC PLAN** (Linkage to Desired End Results)


**Skilled, Innovative & Respectful Organization**
- A skilled, adaptive and diverse workforce, i.e. more flexible staff

**Financial Sustainability**
- Financially Sustainable City by 2020
APPENDICES / SCHEDULES

Appendix “A” to Report PED10154.
Appendix “B” to Report PED10154.
4 Fifth Avenue, Hamilton

City Lot to be Sold

Private Laneway