TO: Chair and Members  
   Public Works Committee  
WARD(S) AFFECTED: WARD 14  

COMMITTEE DATE: September 20, 2010  

SUBJECT/REPORT NO:  
Proposed Permanent Closure and Sale of a Portion of Road Allowance Abutting  
2392 Second Concession West, Lynden (PW10082) - (Ward 14)  

SUBMITTED BY:  
Gerry Davis, CMA  
General Manager  
Public Works Department  

PREPARED BY:  
Marilyn Preston  
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SIGNATURE:  

RECOMMENDATION:  
That the application of the owner of 2392 Second Concession West, Lynden, to  
permanently close and purchase a portion of the abutting road allowance, 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

An application was received from the owner of 2392 Second Concession West in Lynden to permanently close and purchase a portion of road allowance. The applicant is the abutting owner on either side of the road allowance and the intent is to merge the lands with the existing properties. The lands would be subject to Grand River Conservation Authority management and the GRCA has no objections to the closure and sale. There were no objections from the neighbourhood and as no municipal departments or public utilities had any concerns, the Operations & Waste Management Division supports the application.

Alternatives for Consideration - See Page 4

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: The applicant has paid the applicable user fee of $1,800.99. The lands will be transferred at fair market value, as determined by the Planning and Economic Development Department, 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 applicant owns two lots which are separated by an unopened road allowance. There is currently no access from a municipal road to the lands south of the road allowance so they are essentially landlocked. The intent of the application is to close the road allowance to allow the two properties and the road allowance to be merged to create one larger lot which will be accessed on 2nd Concession West as shown on the Location Plan attached to Report PW10082 as Appendix A.

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 fulfill 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”.

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RELEVANT CONSULTATION

Notice of the proposed closure and sale was sent to 5 property owners within a 400 foot (121.9 metre) radius of the closure area.

One response supporting the application was received. No other responses were received.

The following City staff were consulted on this application:

- Planning and Economic Development Department: Development Engineering, Building Services, Economic Development and Real Estate and Planning
- Hamilton Emergency Services
- Corporate Services Department: Budgets and Finance Division
- Ward Councillor

Public utilities including Horizon Utilities, Bell and Union Gas were circulated for comment and no objections were received.

ANALYSIS / RATIONALE FOR RECOMMENDATION

The closure of the lands and transfer to the owner who is abutting on either side will allow the City to receive revenue for lands which are not needed for any municipal purposes.

The subject lands are unopened road allowance which has naturalized with vegetation over time. The area is zoned CM - Conservation Management in the former Town of Flamborough Zoning By-law 90-145-Z and it is unlikely that a road would be established in the future.

The application was circulated to all five properties within the 121.9 m radius and no objections to the closure were received.

ALTERNATIVES FOR CONSIDERATION:

The road allowance could remain City property; however, the City has no use for the property and would not receive the revenue from the sale of the lands at fair market value.
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CORPORATE STRATEGIC PLAN


Healthy Community

• Plan and manage the built environment

APPENDICES / SCHEDULES

Appendix “A” - Location Plan
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