SUBJECT: Lands Bequeathed to the City, Described as Part of Lot 6 on Plan 111, Known as 20 Dundurn Street South, Hamilton (PED06216) (Ward 1)

RECOMMENDATION:

(a) That the City Solicitor be authorized to take all steps necessary, and execute all documents necessary, to accept title to the lands described as part of Lot 6 on Plan 111, being 20 Dundurn Street South (as shown on Appendix “A” to Report PED06216).

(b) That upon transfer of the subject lands to the City of Hamilton identified as 20 Dundurn Street South, Hamilton, described as Part of Lot 6 on Plan 111 the lands be declared surplus to the requirements of the City of Hamilton in accordance with the “Procedural By-Law for the Sale of Land”, being By-law No. 04-299, save and except those lands required for road widening purposes.

(c) That the Real Estate Section of the Development and Real Estate Division be authorized and directed to sell the subject lands on the open market, in accordance with the “Procedural By-Law for the Sale of Land”, being By-law No. 04-299 with the net proceeds from the sale to be deposited in Reserve Account No. 100005, “Revolving Fund for Heritage Properties”.
(d) That the survey plan be prepared to identify the road widening requirements and that appropriate lands be incorporated by by-law into Dundurn Street South road allowance. The road widening shall be excluded from the lands to be sold.

____________________________________
Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The Real Estate Section of the Planning and Economic Development Department is seeking City Council’s approval to accept title to the subject lands and; to then declare the subject lands surplus to the City’s requirements. Pursuant to such an approval, the Real Estate Section intends to sell the subject lands for market value on the open real estate market on an “as is, where is” basis. Proceeds are recommended to be deposited into the Heritage Properties Reserve to be used for future acquisition or restoration of designated heritage properties.

BACKGROUND:

The information and recommendation contained in this report primarily affects Ward 1. The subject property is located in the Fortino’s Mall at the corner of Dundurn Street South and King Street West. The land is zoned “D” Residential (1 and 2 Family), with an older house located on the property. This site was not included when the Fortino’s plaza was constructed, so the plaza and parking lot were developed around this site. The subject parcel is approximately 11.58 metres (38.00 feet) by 30.48 metres (100.00 feet), comprising a total area of 0.036 hectare (0.09 acre) more or less and is legally described as part of Lot 6 on Plan 111, as shown on Appendix “A” to Report PED06216.

On March 15, 2006, notice was received from James Ion, Solicitor, representing the Estate of William Frederick Fuller, who passed away on January 1, 2006. Under the Last Will and Testament, Paragraph 4, the Will stipulates: “To transfer legal title to and possession of all of my right title and interest in the land and appurtenances at 20 Dundurn Street South, Hamilton, Ontario, to the City of Hamilton. It is my wish that the house at 20 Dundurn Street South, Hamilton be used by the City of Hamilton as an historic site, if possible, otherwise, the said lands and premises shall be granted to the City of Hamilton for its own use absolutely.”

Consideration to the building being used by the City of Hamilton as a historical site, if possible, had been circulated to Heritage staff for review and response. Comments pertaining to the cultural value of the subject lands are noted in the Policy Section of this report.
The second issue to the bequest is that the subject lands “shall be granted to the City of Hamilton for its own use absolutely”. On April 19, 2006, correspondence had been sent to the Solicitor representing the estate requesting confirmation as to any restrictions under which the subject lands would be conveyed to the City of Hamilton. A reply was received on April 24, 2006, from Mr. J. Ion from the firm of Underwood & Ion, advising the City Solicitor that the firm is “unaware of any conditions under which the subject lands would be conveyed to the city”. Further to advice received from Legal Services as there are no conditions to the transfer, the City can divest its interest in the subject lands.

The Real Estate Section of the Planning and Economic Development Department circulated the information to all City Departments and City Councillors, requesting comments in order to determine if there was a municipal interest in accepting the donation of the lands from the Estate of William Frederick Fuller.

**ANALYSIS/RATIONALE:**

Approval of the recommendation by Committee and Council will authorize Real Estate staff to advise the Estate of William Frederick Fuller that the City will accept title to the subject lands, subject to the sale conditions outlined in this report.

**ALTERNATIVES FOR CONSIDERATION:**

Denial in accepting ownership of the asset would be to forego potential revenues to the City for heritage initiatives, which otherwise would not be realized.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial: If Council approves this recommendation, there will be additional revenue to the City from the sale of the land. Net proceeds are being recommended to be deposited in the Heritage Properties Reserve, Account No. 100005. This reserve was originally set up to acquire heritage properties in accordance with a 1976 agreement between the Ontario Heritage Foundation and the former City of Hamilton. In 2004, Council approved the Portfolio Management Strategy, which included support for a revolving fund for heritage properties with the primary purpose being for maintaining City-owned heritage buildings and to provide special funding for the acquisition, disposition and conservation management of heritage properties. Presently, there is approximately $190,000 in this reserve.

Staffing: If Council approves this recommendation, there will be no identified staffing implications arising out of the recommendation.

Legal: If Council approves this recommendation, there will be no identified legal implications arising out of the recommendation.
POLICIES AFFECTING PROPOSAL:

This recommendation is consistent with the Real Estate Management Portfolio Strategy Plan, as approved by City Council on November 24, 2004. The established criteria and principles surrounding acquisition of real property will primarily occur:

- For new municipal facility, through the capital budget planning process.
- As a dedication, through the development approval process.
- As a result of tax arrears or donations.

As the subject land is to be bequeathed to the City Of Hamilton, acceptance to the bequeathed is consistent, in principle, with the Real Estate Portfolio Management Strategy. Pursuant to the Last Will and Testament, it was the wish of the deceased that the house be used by the City Of Hamilton as an historical site, if possible, otherwise, the said lands be granted to the City for its own use.

As part of the City’s due diligence when considering buildings that are older than 40 years, advice is sought from the City of Hamilton LACAC (Municipal Heritage Committee) regarding potential heritage designations and cost estimated of maintaining such designation.

With respect to the issue of the historical designation, staff obtained the advice of the Municipal Heritage Committee regarding the potential heritage designation of the property. At the May 18, 2006 meeting, Committee adopted staff’s report that “the property may be of some local heritage interest, but cannot be considered to be of “high value”. There are better examples of this building form and associated component streetscapes elsewhere in the City. In addition, “the subject property is not of sufficient cultural heritage value to fulfill the City’s criteria for acquisition of cultural heritage property as stated in the approved Portfolio Management Strategy”.

As the subject land is not required for a future mandated program use, it is being recommended that the City divest its interest in the land. To be sensitive and complementary to the former owner’s wishes for the property pursuant to the Last Will and Testament, the Department feels it important that the proceeds from the sale be directed to the Heritage Reserve. In this way, the former owner will have directly contributed to the legacy of heritage preservation in our community.

RELEVANT CONSULTATION:

Pursuant to the City of Hamilton Real Property Sale Procedural By-law 04-299, the Real Estate Section circulated the request to all City Departments. No municipal uses were identified for the subject property.

The circulation identified that a 2.10 metres (6.89 feet) road widening along Dundurn Street South which will be incorporated into the road allowance as part of the process.
The Portfolio Management Committee discussed this item on June 15, 2006 and agreed to move forward with this recommendation.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced.  ☑Yes  ☐No
A City of Growth and Opportunity.

Environmental Well-Being is enhanced.  ☐Yes  ☑No

Economic Well-Being is enhanced.  ☑Yes  ☐No
A City that spends wisely and invests strategically.

Does the option you are recommending create value across all three bottom lines?
  ☐Yes  ☑No

Do the options you are recommending make Hamilton a City of choice for high performance public servants?
  ☑Yes  ☐No

:HM
Attach. (1)