SUBJECT: City of Hamilton Purchase of 43 – 45 Cherry Beach Road, in the former City of Stoney Creek, from George McClary and Lois McClary (PED08221 / PW08071a) (Ward 10)

RECOMMENDATION:

(a) That an Option to Purchase, with an Authority to Enter, executed by George McClary and Lois McClary on August 28, 2008, being subject to a satisfactory environmental review and scheduled to close on or before December 22, 2008 to purchase the lands described as part of Lot 18, Broken Front Concession 8 in the former Township of Saltfleet, with a frontage of 27.43 metres (90 feet) more or less, in the former City of Stoney Creek, now in the City of Hamilton, known municipally as 43 - 45 Cherry Beach Road, (shown on the attached Appendix “A” to Report PED08221 / PW08071a), be approved and completed, at a purchase price not to exceed $526,000.

(b) That subject to approval of section (a) that the total acquisition costs in the amount of $665,000 (including purchase price, demolition, legal, real estate costs and contingency) be pre-approved in the 2009 Capital Budget as Project ID 4400856144 (Cherry Beach), with funding from the Parkland Dedication Reserve 104090.
(c) That as consideration, the amount of $2 paid to the owners pursuant to the agreement, be deducted from the purchase price.

(d) That the Mayor and Clerk be authorized and directed to execute any necessary documents, in a form satisfactory to the City Solicitor.

(e) That upon City Council approval of the purchase of and funding for 43 – 45 Cherry Beach Road, that the Director of Energy, Fleet and Facilities be authorized and directed to take all the necessary steps for the demolition of the subject buildings, and that the cost for the demolition and any additional ancillary expenses be charged to Account 59259-4400856144 (Cherry Beach Land Acquisition and Parkland Development Account) and that any Legal fees or costs incurred by the City Solicitor in this matter be charged to Account 59259-4400856144 (Cherry Beach Land Acquisition and Parkland Development Account).

(f) That the costs incurred for the provision of real estate service in the amount of $10,000 be credited to Account 47702-3560150200 (Property Purchases and Sales) and debited from Account 59259-4400856144 (Cherry Beach Land Acquisition and Parkland Development Account).

Scott Stewart, C.E.T.  
General Manager  
Public Works Department

Tim McCabe  
General Manager  
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The former City of Stoney Creek and the new City of Hamilton has been acquiring lands in the Cherry Beach lakefront area for over 30 years in order to develop a community lakefront park. The acquisition program has been re-affirmed by City Council at its meeting on June 25, 2008, in adopting Item K (i), Private and Confidential, Public Works Committee Report 08-011, Purchase of Properties on Cherry Beach Road, Stoney Creek.

This report is a follow-up to City Council’s meeting of June 25, 2008. The report recommends the funding for and the approval of an Option to Purchase agreement, in the amount of $526,000 for the purchase of 43 – 45 Cherry Beach Road, comprising 0.22 hectares (0.56 acres) more or less of land and 27.43 metres (90 feet) of frontage, from George McClary and Lois McClary. This purchase agreement includes an Authority to Enter Agreement, which is required for the City to complete the requisite
environmental testing. Authorization is requested for $665,000 from the Parkland Reserve to fund the subject purchase and the related ancillary costs.

**BACKGROUND:**

The information/recommendations contained within this report primarily affect Ward 10 but may have City wide implications.

Prior to amalgamation, the former City of Stoney Creek had initiated an acquisition program in the area of Cherry Beach Road. Stoney Creek began acquisitions in this area as early as the 1960s and purchases continued to take place into the 1990s. These properties were acquired to facilitate a future waterfront park to be located in an area located from west of First Private Road to the eastern limits of the property holdings along Third Private Road, bounded by Lake Ontario to the north and Cherry Beach Road to the south. Most residences in the Cherry Beach acquisition area are not serviced with municipal water, sanitary or storm sewers.

The Stoney Creek Official Plan (Subsection A.7.2.5) authorizes the municipality to acquire lands for parkland uses to ensure that an adequate level of open space, recreational services and facilities are provided as per the Recreation Master Plan. These acquisitions must be in accordance with the provisions of Subsection F.8 of the Official Plan, which in part permits the acquisition of land given its availability on the open market. It was on this basis that lands were acquired in the 1990s. The subject property is being purchased under the same precedence.

A City of Stoney Creek internal Planning staff memo in 1993 noted among other benefits to the municipality, that a lakefront park at Cherry Beach would:

1) maximize and consolidate municipal lands in this area;
2) maximize the visibility and development of the potential park;
3) remove private dwellings which otherwise would remain on a private road indefinitely; and,
4) relieve environmental septic problems for the existing homeowners and will alleviate the necessity of additional municipal services.

Cherry Beach is an older lakefront area enclave, north of the Queen Elizabeth Way between Millen and Dewitt Roads. As per Zoning By-law 3692-92, approved by Stoney Creek Council on February 20, 1996, the subject property is in a Neighbourhood Development “ND-1” Zone. The site specific zoning amendment restricts the re-development of the subject and other lands in the Cherry Beach acquisition area.

The entire Cherry Beach acquisition area consists of approximately 9 acres. At present, the City of Hamilton owns almost 6 acres in this area but will be adding the Ontario Realty Corporation’s (Ministry of Transportation) 1.52 acres located at 00 North Service Road. The balances of approximately 1.5 acres are privately held in 10 smaller residential parcels.
The subject property at 43-45 Cherry Beach Road consists of 0.22 hectares (0.56 acres), more or less with 27.43 metres (90 feet) of frontage. The real estate includes a frame one-storey residential dwelling and two detached rental cottage buildings. These structures are to be demolished upon closing. The Real Estate Section negotiated a sale price of $526,000 with the owners. This price is within the range of estimated appraised market value of the subject property. Earlier in 2008, the subject property was listed for sale with an asking price of $599,900.

To satisfy the requirements under the City’s Contaminated Sites Management Program, the purchase is conditional on the completion of a favourable Environmental Site Assessment prior to closing. The City has 45 days from the acceptance date of the Option in which to review and recommend closing based on the results of the assessment.

With the approval of this purchase, the City has 10 additional properties in the Cherry Beach area to acquire in order to complete the acquisition program for the Cherry Beach lakefront park.

**ANALYSIS/RATIONALE:**

Parkland needs are determined by the new standards set out in Section C.1.1 of the City’s Official Plan (Official Plan Amendment No. 205 to the former City of Hamilton Official Plan, June 2006) and are based on neighbourhood population (0.7 hectares required per 1000 population for neighbourhood, and community parks). The parkland needs for each neighbourhood are determined for neighbourhood and community parks only; City wide parks serve a broad area beyond the local community and have not been included in the calculations of needs and deficiencies.

The acquisition of parkland is an essential element in guaranteeing the future access of Hamilton’s citizens to open space. The provision of parkland/open space is fundamental in the quality of life for the residents of the City and as a result, land acquisition represents the major priority of park expenditures.

The subject lands are one of the largest remaining parcels in this Cherry Beach enclave. On a unit area analysis, this acquisition becomes very cost effective compared to the other much smaller residential parcels acquired in past years.

The opportunity to secure this key property based on an agreement with the McClarys on an amicable basis, presents an opportune time to move forward with the acquisition of this larger site.

**ALTERNATIVES FOR CONSIDERATION:**

An alternative is not to purchase these lands. This is not recommended in light of the past actions taken by the former City of Stoney Creek in initiating the acquisition program in the area of Cherry Beach Road to facilitate a future waterfront park and
subject subsequently re-affirmed by City Council at its meeting on June 25, 2008, in continuing with the acquisition strategy.

In the event approval or funding of the Option to Purchase is not granted by Council, the City may be faced with an expropriation in years to come to obtain the subject lands in order to accommodate the proposed Cherry Beach lakefront park. An expropriation process is an expensive, confrontational and time consuming process.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

**Financial:** There are sufficient monies in the Parkland Dedication Reserve 104090 to fund the costs identified in this report for the property acquisition. A contingency is also accounted for in the estimated costs. The costs are broken down as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
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<tbody>
<tr>
<td>Purchase Cost and Legal Fee</td>
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<td>Real Estate Fee Allowance</td>
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<td>Demolition, Design, Site Improvements</td>
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<td>Administration and ESA Allowance</td>
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<td>Contingency</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$665,000</strong></td>
</tr>
</tbody>
</table>

**Staffing:** N/A

**Legal:** Legal Services will be required to assist in the preparation of the necessary documents required to complete the transaction as set out herein.

**POLICIES AFFECTING PROPOSAL:**

This recommendation is consistent with the Real Estate Management Portfolio Strategy Plan, as approved by Council on November 24, 2004, to acquire property in support of municipal programs and needs. As the purchase price of the subject land exceeds the $250,000 limit set by City Council under the Delegation of Authority approval process, approval is, therefore, required by City Council.

**RELEVANT CONSULTATION:**

- Public Works Department, Open Space Development and Park Planning
- Planning and Economic Development Department, Economic Development and Real Estate
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
Providing the lands required to move forward to develop a lakefront park for the general community of the City of Hamilton.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Removal of a residence with potential septic and sanitary concerns near a water body. Once land consolidation is completed park development will proceed with shoreline stabilization.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Hamilton’s high-quality environmental amenities are maintained and enhanced. Waterfront access is an important environmental amenity, and the purchase of properties as they become available is a wise use of funds.

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

VDP/MAK/sd
Attach. (1)
SUBJECT

LOCATION PLAN

43-45 CHERRY BEACH ROAD,
former City of Stoney Creek
purchase from McClary

CITY OF HAMILTON

LEGEND

SUBJECT LAND

SCALE: NOT TO SCALE

DATE: 2008-09-30

REFERENCE FILE NO: 2007-090