SUBJECT: Declaration of Surplus Property on a Portion of City Owned Lands Described on Parts 1 & 2 on City Draft Plan No. RB-S-774, Known Municipally as Part of 36 Lakeside Drive (PED06154) (Ward 11) - Referred from Planning and Economic Development Committee on August 3, 2004

RECOMMENDATION:

(a) That the subject lands, being part of 36 Lakeside Drive, in the former City of Stoney Creek, now in the City of Hamilton, being composed of part of Lots 5 & 6 on Plan 428, further described as Parts 1 & 2 on Draft Plan No. RB-S-774, comprising an area of 108 square metres (1162.50 square feet), attached hereto as Appendix “A” to Report PED06154, be declared surplus to the requirements of the City of Hamilton, in accordance with Procedural By-law for the Sale of Land, being By-law 04-299.

(b) That the Real Estate Section of the Development and Real Estate Division be authorized and directed to negotiate an Offer To Purchase (Temporary Easement) for the purpose of accommodating a private septic system to the abutting neighbour to the west, Mrs. M. Murphy, in accordance with the Procedural By-law for the Sale of Land, being By-law 04-299. The Offer to Purchase (Temporary Easement) is to be based on the following conditions:

(i) That this Easement Agreement will remain in effect until such time as Lakeside Drive is fully serviced, at which time the Purchaser will be required to and be responsible for connecting to the municipal sewer system.
Subject: Declaration of Surplus Property on a Portion of City Owned Lands Described on Parts 1 & 2 on City Draft Plan No. RB-S-774, Known Municipally as Part of 36 Lakeside Drive PED06154) (Ward 11) - Referred from Planning and Economic Development Committee on August 3, 2004 - Page 2 of 5

(ii) That the Purchaser will be required to acknowledge and agree that upon connecting to the municipal sewer system, that the Purchaser will be required, at their own expense, to remove the septic tank and tile bed from the City lands. The Purchaser shall provide confirmation to the City of Hamilton of the completed work. Upon completion of the work, the Purchasers shall be responsible for all costs associated with restoring the City owned parcel to its original condition.

(iii) That the Purchaser will be required to acknowledge and agree that the maintenance of the sewage disposal tank and the grounds shall be at its sole cost.

(iv) That no further encumbrances will be granted to the Purchaser by the Vendor on the subject lands.

(c) That an Offer to Purchase to be executed by Margaret Murphy, for a temporary easement over Parts 1 & 2 on Draft Plan No. RB-S-774, attached hereto as Appendix “B” to Report PED06154, be approved and completed for the nominal consideration of One Dollar ($1.00).

(d) That the City Clerk be authorized and directed to execute and issue a Certificate of Compliance in the form prescribed pursuant to Section 268 of the Municipal Act incorporating the following, if required:

(i) That the subject lands be declared surplus by inclusion of this report to City Council.

(ii) That satisfactory notice to the public of the proposed sale of the easement by inclusion of this report to City Council.

(iii) Notwithstanding Section 3 (b) of By-Law No. 04-299 requiring at least one appraisal of the fair market value be waived.

(e) That Item “C” referred from the Planning and Economic Development Committee on August 3, 2004, be identified as completed and removed from the Planning and Economic Development Committee’s Outstanding Business List.

____________________________________
Lee Ann Coveyduck
General Manager
Planning and Economic Development Department
EXECUTIVE SUMMARY:

The purpose of this report is to request City Council’s approval to declare the subject property surplus to the requirements of the City and to approve a temporary easement for the purpose of a sewage septic system to Mrs. Margaret Murphy, the owner of 38 Lakeside Drive. The subject property is described as Parts 1 & 2 on Draft Plan No. RB-S-774, comprising an area of 108 square metres (1162.50 square feet), municipally known as part of 36 Lakeside Drive, Stoney Creek, now in the City of Hamilton.

BACKGROUND:

In April 1974, Hurricane Hazel hit an area that stretched from Kitchener to Ottawa and from Toronto to Sudbury. It hit the shoreline and destroyed two retaining walls and eroded the lands that contained the septic system for the property at 38 Lakeside Drive in Stoney Creek. As part of the Disaster Relief Program, the Township of Saltfleet made the necessary repairs and the septic system was placed on the subject city lands without formal documentation.

City staff has now defined the exact area of the temporary easement to be registered on title. The area of the temporary easement is described as Parts 1 & 2 on Draft Plan No. RB-S-774, comprising an area of 108 square metres (1162.50 square feet). This agreement upon execution will remain in effect until such time as Lakeside Drive is fully serviced, at which time, the Purchaser will be required to:

(i) Remove, at their own expense, the septic system and title bed from the City lands and to connect to the municipal sewer system.

(ii) Provide confirmation to the City of Hamilton of the completed work and to the restoration of the City owned lands to its original condition.

(iii) Continue the maintenance of the sewage disposal tank and the surrounding grounds and, that no further encumbrances will be granted to the Purchaser by the City of Hamilton on the subject City owned lands.

ANALYSIS/RATIONALE:

Declaring the subject lands surplus for the purpose only of granting a temporary easement will allow the lands to remain in the City’s ownership, as well as, remove any potential claims from the abutting owner for adverse possession, or any other interest in the City owned lands.
This approval, for the temporary easement will ensure that a functioning waste management system is maintained and legally authorized for the resident at 38 Lakeside Drive and to allow for the continued use of their home until full municipal services are provided within the area.

The registration of the easement document on title to the subject lands will allow the sewer utility to remain on the City lands on an interim basis. The maintenance, removal and liability associated with the waste management system will be at the sole cost of the Purchaser.

**ALTERNATIVES FOR CONSIDERATION:**

If the City of Hamilton denied this request, the abutting owner would be forced to remove the septic tank from City lands and would have to find alternative solutions to deal with the disposal of waste/sewage. At present there are no other alternatives available to the home owner. As the system may have been installed by agents of the then Township of Saltfleet on lands owned by the former Township, and to recognize this existing situation is deemed appropriate and it is being recommended that Council approve the request for a temporary easement until full municipal services are provided to the area of the subject lands.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

**Financial:** There are no financial implications as a result of this report.

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

**Legal:** There are no identified legal implications as a result of this report.

**POLICIES AFFECTING PROPOSAL:**

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 that City Council must declare surplus any lands to be disposed of by the City.

**RELEVANT CONSULTATION:**

The Real Estate Section completed a circulation to all City Departments requesting comments. There were no objections to the granting of an easement on the City lands.
Subject: Declaration of Surplus Property on a Portion of City Owned Lands Described on Parts 1 & 2 on City Draft Plan No. RB-S-774, Known Municipally as Part of 36 Lakeside Drive PED06154 (Ward 11) - Referred from Planning and Economic Development Committee on August 3, 2004 - Page 5 of 5

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
Eliminate health concerns.

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
Attachments. (2)
Location Map

File Name/Number: 2003 002  
Date: April 18, 2006

Appendix “A”  
Scale: N.T.S.  
Planner/Technician: HM/NB

Subject Property  
Part of 36 Lakeside Drive, Stoney Creek, composed of Parts of Lots 5 and 6 on Plan 428, further described as Parts 1 and 2 on City Draft Plan No. RB-S-774, Part of Ptn 17347-0160(LT).
Appendix "B" to Report PED06154 (Page 1 of 1)