SUBJECT: Declaration of Surplus Property - Proposed Sale Between the City of Hamilton and the North Hamilton Community Health Centre of Part 1 on Plan No. RB-H-748 Surveys, Municipally Known as Part of 444 Hughson Street North (PED07036) (Ward 2)

RECOMMENDATION:

(a) That the subject lands, being part of 444 Hughson Street North, being composed of Lots 15 & 16, Part of Lots 17, 24 & 25 on the west side of John Street North, Lots 15 & 16, Part of Lots 17, 23 & 26 on the east side of Hughson Street North, in the Block bounded by Wood, John, Macauley and Hughson Streets, James Hughson Survey, Unregistered, in the City of Hamilton, more particularly described as Part 1 on Plan No. RB-H-748 Surveys, comprising an area of 0.4 ha. (1.0 acres) attached as Appendix “A” to Report PED07036, 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 an Offer to Purchase executed by North Hamilton Community Health Care on December 22, 2006, and scheduled to close on or before April 6, 2007, for the acquisition of the subject lands described in Sub-section (a) above at a purchase price of $616,140.00, be approved and completed.

(c) That the required deposit cheque, in the amount of $61,614.00, being 10% of the purchase price, be held by the General Manager of Finance and Corporate Services pending completion of this transaction.

(d) That the sale price of $616,140.00, less the associated costs of preparing the property for sale as identified in Sub-section (e) below, be credited to the Property Purchase Reserve Account 100035.

(e) That the sum of $20,000.00 be debited to Account 47702-3560150200 (Reserve for Property Purchases), being the cost to prepare the property for sale.
(f) That the Offer to Purchase agreement contain the following key provisions:

(i) That it is understood and agreed that the Purchaser shall submit to the Vendor, prior to closing, documentation verifying that suitable arrangements have been made to secure additional parking offsite to facilitate the proposed development on the subject lands, failing which, this Offer will become null and void and the deposit shall be returned without deduction and without interest.

(ii) That the Purchaser acknowledges and agrees that upon closing of the herein transaction, the Purchaser shall obtain at their expense a demolition permit from the City of Hamilton’s Building and Licensing Division and, further that the Purchaser shall bear all costs, expenses, fees and charges in respect to the demolition of the existing building on the said lands.

(iii) That it is understood and agreed that as a condition of demolition to be carried out by the Purchaser’s contractors and employees, at the Purchaser’s costs, that all necessary precautions shall be taken to ensure that the existing breezeway from the existing school building to the brick pillars/double doors located at the south end of the Bennetto Community Centre, is removed and that said opening to the Bennetto Community Centre is adequately enclosed and/or protected to the satisfaction of the City of Hamilton.

(iv) That the Purchaser will prepare and obtain approval of a consent agreement pursuant to the Planning Act (Ontario) prior to the issuance of a building permit. The Purchaser will complete all terms, conditions and covenants imposed upon it by the site plan approval. It is further understood and agreed that the Vendor permits the submission by the Purchaser of the necessary applications at the expense of the Purchaser and prior to the closing of this transaction, and agrees to execute such documentation necessary in connection with the said applications.

(v) That the Purchaser shall obtain all government permits and approvals required for the Purchaser’s proposed use of the said lands, and satisfy all requirements and restrictions imposed thereby from the Vendor and all other governmental authorities having jurisdiction, at its own cost.

(vi) That subject to the prior approval of the construction by the Ministry of Health and Long Term Care, the Purchaser shall commence construction of the building(s) in accordance with the consent agreement upon the said lands by not later than one (1) year after the date of closing of the purchase transaction. Construction is considered commenced when the foundations have been installed, as determined by the City of Hamilton Building and Licensing Division. The Purchaser shall not be in default of
this Agreement in event the delay in the commencement of construction is as a result of a delay in obtaining the prior approval for construction from the Ministry of Health and Long Term Care.

(vii) That subject to the provisos as set out in Sub-section (vi) above; the Purchaser shall complete construction of the said building(s) not later than eighteen (18) months after the date of commencement of construction referred to above. The building is considered completed upon the issuance by the City of Hamilton Building and Licensing Division of an occupancy permit or satisfactory final inspection, as determined by the Building and Licensing Division.

(viii) That if the Purchaser fails to comply with the conditions relating to commencement and completion of construction set out in Sub-sections (vi) & (vii) above, within the time required, then the Vendor shall have the right to enter upon the said lands upon thirty (30) days notice to the Purchaser, and any such entry by the Vendor, pursuant to the terms hereof, shall determine the estate of the Purchaser in the said lands. Notice of the entry may be registered by the Vendor on title to the said lands.

(ix) That upon such entry by the Vendor, the Purchaser, at its own cost, shall execute and deliver to the Vendor a transfer of the said lands to the Vendor, free and clear of all charges, encumbrances, liens, claims or adverse interests whatsoever, and the Vendor agrees to pay to the Purchaser the original purchase price for the said lands, less the deposit, less the commission paid (if any) by the Vendor to a real estate agent, less arrears of realty taxes, penalty and interest (including local improvement charges), less amounts required to discharge any mortgages, liens, charges or other encumbrances against the said lands and less the costs of the Vendor incurred in entering on the land and retaking and reselling the land and without increase or compensation for any improvements, additions, alterations in, on or under the said lands.

(x) That the Purchaser acknowledges and agrees that the Purchaser is responsible for certain charges, fees, levies and rates affecting the said lands and for providing all services required to the said lands. The Purchaser is responsible for the following:

(1) Municipal, realty and business taxes.

(2) Building permit application fee and the applicable development charges.

(3) Storm, sanitary sewers and waterline laterals under the street and under the said lands.
Subject: Declaration of Surplus Property - Proposed Sale Between the City of Hamilton and the North Hamilton Community Health Centre of Part 1 on City Draft Plan No. RB-H-748, Municipally Known as Part of 444 Hughson Street North (PED07036) (Ward 2) - Page 4 of 6

(4) All utility connections to the said lands.

(5) The construction of a driveway to and over the said lands.

(6) Parkland dedication fees in accordance with By-law No. 03-199.

(x) That notwithstanding any other statement contained in this Agreement, nothing herein shall be interpreted to constitute pre-approval of the Purchaser’s development of the property by the Vendor, and the Vendor makes no representations or warranties herein as to the result of any application the Purchaser may submit to the Vendor in respect of the property.

(xii) That the Purchaser acknowledges that the Vendor, on or before the closing date of this transaction, will be removing the existing fire and electrical panels from the existing school, at its own cost.

(g) 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, if required.

______________________________
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 the sale to the North Hamilton Community Health Centre, as directed by a Motion passed by the Committee of the Whole on March 4, 2003.

BACKGROUND:

The subject lands were acquired from the Hamilton-Wentworth District School Board in order that the City not risk losing community access to the gymnasium and auditorium, which would have resulted in a significant decrease in community programming.

City Council, on December 17, 2002, adopted Item 5 of the Committee of the Whole Report approving the Option to Purchase agreement between the Hamilton-Wentworth District School Board and the City of Hamilton.
On March 4, 2003, a motion was passed “that a joint working group be established consisting of appropriate staff, two members of Council and representatives from the North Hamilton Community Health Centre, to achieve an appropriate negotiation between the City of Hamilton and the North Hamilton Community Health Centre for the Community Health Care Centre’s utilization of the Bennetto School site now owned by the City of Hamilton”.

The former Bennetto Elementary School is to be demolished for the construction of the new Health Centre upon the Offer to Purchase agreement being ratified by Council and final approval being obtained from the Ministry of Health and Long Term Care.

As a City Initiative, City Council, on October 25, 2006, in adopting Item 25 of the Planning and Economic Development Committee, Report 06-018, approved the appropriate Official Plan and Zoning amendments to permit the lands to be used for a medical clinic and library. The amendments were required to permit the prospective purchaser (North Hamilton Community Health Centre) with the appropriate amendments to facilitate the construction of their new facility upon those lands identified as Part 1 on Plan RB-H-748 Surveys.

**ANALYSIS/RATIONALE:**

Approval of the recommendation by Council will authorize Real Estate staff to proceed with the disposal of the subject lands. Once the lands are sold, the City will no longer be liable for activities on this property or the associated maintenance costs.

**ALTERNATIVES FOR CONSIDERATION:**

Should the City not sell the property, the building will remain vacant for an unspecified period of time and continue to be a liability to the City. The acquisition had merit to ensure that the City was not in risk of losing community access to the gymnasium and auditorium, as well as the shared utility plant. Further, if the sale is denied, it is recommended that the remainder of the school facility be demolished and converted to recreational and sport facilities. This action would reduce operating cost of the facility and capital costs through 2008 estimated at $1,000,000.00 (roof, hvac, flooring, asbestos removal, etc.) being some of the issues making up the capital outlay. If Council rejects the sale of the lands and at the juncture when such a decision needs to be made on the proposed recommendation to demolish, a further report to Council shall be prepared for consideration.

**FINANCIAL/STAFFING/Legal IMPLICATIONS:**

**Financial:** The proceeds to be realized from the sale of the subject lands are to be credited to the Property Purchase Reserve Account 100035.

**Staffing:** There are no identified staffing implications as a result of this report.
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Legal: Legal Services would be required to work with the Real Estate Section to complete the disposal of this property.

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 No. 04-299. As the purchase price of the subject land exceeds the $250,000.00 limit set by City Council under the Delegation of Authority approval process, approval is, therefore, required by City Council.

RELEVANT CONSULTATION:

- Corporate Services Department, Budgets & Finance Division
- Community Services Department, Culture & Recreation Division
- Public Works Department, Fleet & Facilities Division

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
Partnerships are promoted.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Eliminate health concerns.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported.
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

:BF
Attach. (1)