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The Regional Municipality of Durham Report

To: Works Committee
From: Acting Commissioner of Works
Report: #2024-W-9
Date: April 3, 2024

Subject:

Declaration of Lands as Surplus and Approval to Transfer the Surplus Lands to the Hamilton-Oshawa Port Authority's wholly owned subsidiary Great Lakes Port Management Inc.

Recommendations:

That the Works Committee recommends to Regional Council:

- A) That Part of Lot 5, Broken Front Concession, in the Geographic Township of East Whitby, now in the City of Oshawa, in the Regional Municipality of Durham, identified as part of the PIN 16378-0001 (LT) and described further as Part 1 on Reference Plan 40R-32006 (the Lands) be declared as surplus to Regional Municipality of Durham requirements;
- B) That sections 3 and 4 (1) of Regional By-law #52-95 be waived to facilitate the land transfer from the Regional Municipality of Durham to Great Lakes Port Management Inc.;
- C) That Regional staff be authorized to transfer the Lands to Great Lakes Port Management Inc., a wholly owned subsidiary of the Hamilton Oshawa Port Authority (HOPA), for a compensation amount of \$433,000;
- D) That the transfer authorized by Recommendation C) be subject to the following being registered on title to the Lands:
 - I. Easements for the landowner, McAsphalt Industries Limited, of the adjacent properties at 1221 Farewell Street and 1241 Farewell Street for access to the Lands; and

- II. Easements for municipal services and existing utilities/services provided by Bell Canada, Enbridge Gas, Oshawa Power and Utilities Commission, and the Regional Municipality of Durham for access, maintenance, and repairs;
 - E) That authority be granted to the Commissioner of Works to execute all documents associated with this land transfer;
 - F) That the Regional Road By-law #22-2018 be amended to remove the Lands from the by-law, and that Regional staff prepare the required amending bylaw and present it to Regional Council for passage to give effect thereto;
 - G) That Regional Council pass a stop-up and close by-law with the consent of HOPA being obtained pursuant to Section 34(2) (b) of the Municipal Act, 2001, to permit the transfer of the Lands per the requirements under the Municipal Act. The draft bylaw is attached as Attachment #3 to this report; and
 - H) That a copy of this report be provided to the City of Oshawa and Hamilton Oshawa Port Authority for information.
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Report:

1. Purpose

- 1.1 The purpose of this report is to obtain approval to stop-up and close part of Regional Road 56 (commonly known as Farewell Street) (the Lands) (Attachment #1) and declare it surplus to the Regional Municipality of Durham's (Region) requirements, and to authorize staff to transfer the Lands, subject to certain easements for neighbouring property owners for access, to Great Lakes Port Management Inc., a wholly-owned subsidiary of the Hamilton-Oshawa Port Authority (HOPA).

2. Background

- 2.1 Regional Road 56 (Farewell Street) provides direct access to industrial businesses in south Oshawa, including Great Lakes Port Management Inc., a wholly owned HOPA subsidiary, and McAsphalt Industries Limited.
- 2.2 The Region included a proposed rehabilitation and reconstruction of Farewell Street in the 2022 Capital Budget and Nine-Year Forecast, traversing the subject Lands. During the detailed design and stakeholder engagement, HOPA's representatives requested that the Region provide a broader cross-section on the subject road segment to allow for inbound truck staging on the entrance to the port lands and to maintain a dedicated

lane for each of the northbound and southbound lanes through traffic. However, HOPA's request was beyond the Region's mandate and scope of the planned work.

- 2.3 HOPA requested that the Region transfer ownership of the Lands, totalling 4,269 square metres, to the Authority to allow for timely and strategic improvements to the main entrance to the port lands and to improve fluidity and safety within the port district.
- 2.4 HOPA would assume responsibility for all land improvement costs and ensure that the existing access for businesses adjoining the Lands is maintained upon the transfer of ownership of the Land.
- 2.5 HOPA would assume responsibility for all the asset management and maintenance (including winter maintenance) for the roadway infrastructure on the Lands.
- 2.6 The Region will avoid the costs of the proposed rehabilitation estimated at \$200,000, and ongoing maintenance for this section of Farewell Street.
- 2.7 McAsphalt Industries Limited, owner of 1221 and 1241 Farewell Street, provided the Region with a letter confirming their support of the Lands transfer to HOPA. McAsphalt will, however, require an easement for access to the lands.
- 2.8 Bell Canada and Enbridge advised that they require easements on the title of the property post-transfer. Oshawa Power and Utilities Commission (OPUC) advised that they have no concerns with the property being transferred to HOPA; however, they will need unobstructed access to the Lands through an easement.
- 2.9 The City of Oshawa indicated that they do not require an easement. However, HOPA will become responsible for the existing streetlighting luminaires and associated hydro costs within the Lands area.

3. Previous Reports

- 3.1 At its meeting on February 23, 2022, Regional Council endorsed, in principle, HOPA's request [Works Committee Report #2022-W-10](#).

4. Property Disposition

- 4.1 The subject property is a portion of Farewell Street situated south of Harbour Road in the City of Oshawa. The property is a dead-end road connecting to HOPA's lands within the vicinity of an industrial area.

- 4.2 Regional By-law #52-95 established the procedures governing the sale of real property. The initial step in the disposal process is to declare the real property as surplus to Regional requirements. There is no internal opposition to HOPA's request; therefore, the lands can be declared surplus and transferred to HOPA. Section 3 of the bylaw states that notice of the proposed sale must be given to the public and other persons, authorities, or bodies corporate. Section 4 (1) of the By-law states that any real property that has been declared surplus shall first be offered for sale to the area municipality in which the property is situated at a price to be negotiated based on (a) the manner in which the Region acquired the property; (b) the use to which the Region had put the property; (c) the monies that have been expended by the Region on the property; and (d) the fair market value of the property. However, sections 3 and 4 (1) of the By-law are being waived for this transaction.
- 4.3 HOPA is the adjacent landowner to the Region's subject surplus lands at Farewell Street, which consists of approximately 4,269 square metres and has an estimated fair market valuation of \$633,000. The property will be transferred to HOPA for \$433,000, representing the fair market value less the road rehabilitation cost avoided (\$633,000 - \$200,000).

5. Conclusion

- 5.1 Regional Municipality of Durham staff recommend that Part of Lot 5, Broken Front Concession, in the Geographic Township of East Whitby, now in the City of Oshawa, in the Regional Municipality of Durham, identified as part of the PIN 16378-0001 (LT) and described further as Part 1 on Reference Plan 40R-32006 (the Lands) be stopped up and closed and declared surplus to the Regional Municipality of Durham's needs and that the land be conveyed to the Great Lakes Port Management Inc. (a wholly-owned Hamilton Oshawa Port Authority subsidiary) for a compensation amount of \$433,000.
- 5.2 This report has been reviewed by Legal Services – Office of the CAO and Legislative Services – Corporate Services.
- 5.3 For additional information, contact: Christine Dunkley, Director, Corporate Infrastructure and Strategic Business Services extension 3475.

6. Attachments

Attachment #1: Location Map – Registered Plan 40R-32006

Attachment #2: By-law to Amend By-law #22-2018

Attachment #3: Stop up and Close By-law

Respectfully submitted,

Original signed by:

Ramesh. Jagannathan, MBA, M.Eng., P.Eng., PTOE
Acting Commissioner, Works

Recommended for Presentation to Committee

Original signed by:

Elaine C. Baxter-Trahair
Chief Administrative Officer



Harbour Road

The City of Oshawa

Farewell Street

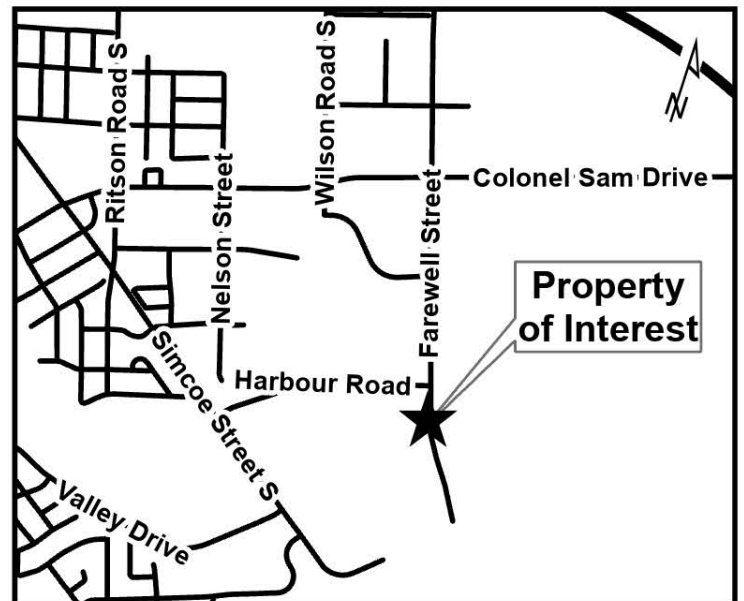
Property of Interest

Ownership Parcel

Property of Interest

Attachment #1 - Location Map

Farewell St City of Oshawa



GIS Data: Produced by Durham Region, 2023.
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By-Law Number xx-2024

of

The Regional Municipality of Durham

Being a by-law to amend By-law Number 22-2018 by which the linear limits of the several roads comprising the Regional Road system are defined.

Now therefore, the Council of The Regional Municipality of Durham hereby enacts as follows:

1. That Schedule “A” be amended by **deleting** therefrom the following:

BEING that portion of road or the deviations thereof in the City of Oshawa known as Farewell Street:

Regional Road Number	From:	To:	Length of Section (m)
56	COMMENCING in Broken Front Concession, on the road between Lots 5 and 6, known as Farewell Street, approximately 220 metres south of the southern limit of Harbour Road;	northerly on the road between Lots 5 and 6 to the southern limit of the road between Broken Front Concession and Concession I, being Regional Road 22 (Bloor Street), which is also the southern limit of the King's Highway 401.	1615.0

2. That Schedule “A” be amended by **adding** thereto the following:

BEING that portion of road or the deviations thereof in the City of Oshawa known as Farewell Street:

Regional Road Number	From:	To:	Length of Section (m)
56	COMMENCING in Broken Front Concession, on the road between Lots 5 and 6, known as Farewell	northerly on the road between Lots 5 and 6 to the southern limit of the road between Broken	1612.0

Attachment #2 to Report #2024-W-9

	Street, at the southern limit of Harbour Road;	Front Concession and Concession I, being Regional Road 22 (Bloor Street), which is also the southern limit of the King's Highway 401.	
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3. This By-law shall come into force and effect _____, 2024.

This By-law Read and Passed on the ____ day of _____, 2024.

J. Henry, Regional Chair and CEO

A. Harras, Regional Clerk

By-law Number 2024-

of The Regional Municipality of Durham

Being a by-law to stop up and close as a public highway and to convey, that portion of Farewell Street (Regional Road 56) legally described as Part of Lot 5, Broken Front Concession, in the Geographic Township of East Whitby, now in the City of Oshawa, in the Regional Municipality of Durham, identified as part of PIN 16378-0001 (LT) and described further as Part 1 on Reference Plan 40R-32006 (the Lands).

Whereas the Lands were formerly part of Farewell Street (Regional Road 56).

Whereas it is desirable to stop up and close the Lands and Regional staff register this by-law at the land registry office pursuant to Section 34(1) of the Municipal Act, R.S.O., 2001.

And whereas the consent of the Government of Canada through the Hamilton-Oshawa Port Authority's wholly owned subsidiary Great Lakes Port Management Inc. has been obtained as required by Section 34(2)(b) of the Municipal Act, 2001, in order for the Region to pass this by-law as was authorized and passed by Regional Council at its meeting on XXXXXX, 2024.

Now therefore, the Council of The Regional Municipality of Durham hereby enacts as follows:

1. That portion of Farewell Street (Regional Road 56) being Part of Lot 5, Broken Front Concession, in the Geographic Township of East Whitby, now in the City of Oshawa, in the Regional Municipality of Durham, identified as part of PIN 16378-0001 (LT) and described further as Part 1 on Reference Plan 40R-32006, is hereby stopped up and closed.
2. The Lands are authorized to be conveyed to the Hamilton-Oshawa Port Authority's wholly owned subsidiary Great Lakes Port Management Inc., subject to the title registration of any required easements for access and public utilities as may be required.
3. The Regional Chair and Clerk are hereby authorized to execute all documents associated with this closure and conveyance which has been approved by the Regional Solicitor for the Lands provided for in Sections 1 and 2 of this by-law.

This By-law Read and Passed on the ____ day of _____, 2024.

John Henry, Regional Chair and CEO

Alexander Harras, Regional Clerk