



CITY OF HAMILTON

PUBLIC WORKS DEPARTMENT
Corporate Assets and Strategic Planning Division

TO: Chair and Members Public Works Committee	WARD(S) AFFECTED: WARD 7
COMMITTEE DATE: October 7, 2013	
SUBJECT/REPORT NO: Proposed Permanent Closure and Sale of a Portion of Public Unassumed Alleyway Abutting 609-615 Upper James Street, Hamilton (PW13072) - (Ward 7)	
SUBMITTED BY: Gerry Davis, CMA General Manager Public Works Department	PREPARED BY: Marilyn Preston (905) 546-2424, Extension 4298
SIGNATURE:	

RECOMMENDATION

- (a) That a portion of the public unassumed alleyway abutting 609-615 Upper James Street, Hamilton, be permanently closed and transferred to the owner of 609-615 Upper James Street, Hamilton, as shown on Appendix A, attached to Report PW13072 (the "Subject Lands"), subject to the following conditions:
 - (i) That the applicant makes an application to the Ontario Superior Court of Justice, under Section 88 of the Registry Act, R.S.O. 1990, for an order to permanently close and purchase the Subject Lands;
 - (ii) That the General Manager, Public Works or his designate sign the appropriate documentation confirming that no public funds have been expended on the lands to be closed;
 - (iii) That the documentation regarding the application to the Ontario Superior Court of Justice be prepared by the applicant, to the satisfaction of the City Solicitor;
 - (iv) That the applicant deposit a reference plan under the Registry Act and that said plan be prepared by an Ontario Land Surveyor to the satisfaction of the Manager, Geomatics and Corridor Management Section and that the

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applicant deposit a reproducible copy of said plan with the Manager, Geomatics and Corridor Control Management Section;

- (b) That provided the application to the Ontario Superior Court of Justice to permanently close the lands is approved:
- (i) That the City Solicitor be authorized and directed to prepare the by-law to permanently close the highway;
 - (ii) That the appropriate by-law be introduced and enacted by Council;
 - (iii) That the Economic Development and Real Estate Division of the Planning and Economic Development Department be authorized and directed to sell the Subject Lands in accordance with the Procedural By-law for the Sale of Land, By-law No. 04-299 for fair market value;
 - (iv) That the City Solicitor be authorized and directed to register a certified copy of the by-law permanently closing the highway in the proper land registry office, upon confirmation from the Public Works Department that all applicable fees and costs associated with the application have been paid by the applicant;
 - (v) That the by-law permanently closing the highway does not take effect until a certified copy of the by-law is registered in the proper land registry office;
 - (vi) That the Public Works Department publish a notice of the City's intention to pass the by-law pursuant to City of Hamilton By-law 04-299 being a By-law to Establish Procedures, including the Giving of Notice to the Public, Governing the Sale of Land Owned by the City of Hamilton.

EXECUTIVE SUMMARY

The owner of 609-615 Upper James Street, Hamilton has submitted an application to permanently close and purchase the Subject Lands abutting the property to the east. The applicant has identified vandalism, illegal parking, noise and dumping as some of the reasons for requesting the closure. As there were no comments received in opposition to the application and the other properties abutting the Subject Lands did not express any opposition to the closure or interest in purchasing any portion of the Subject Lands abutting that property, staff do not oppose the permanent closure and sale of the Subject Lands to the owner of 609-615 Upper James Street, Hamilton.

Alternatives for Consideration - See Page 4

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: The Subject Lands will be transferred to the owner of 609-615 Upper James Street, Hamilton, at fair market value, in accordance with the City's

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policy regarding the sale of public unassumed alleyways abutting non-residential properties.

Staffing: An agreement to purchase the Subject Lands will be negotiated by the Economic Development and Real Estate Division.

Legal: The City Solicitor will prepare the by-law to permanently close the Subject Lands and will register this by-law in the Registry Office once Council has approved it. The City Solicitor will complete the transfer of the Subject Lands to the owner of 609-615 Upper James Street, Hamilton, pursuant to an agreement of purchase and sale or Offer to Purchase as negotiated by the Economic Development and Real Estate Division.

HISTORICAL BACKGROUND

The owner of 609-615 Upper James Street, Hamilton, has experienced acts of vandalism, illegal parking, noise and dumping within the Subject Lands at the rear of the property. In an effort to resolve these issues, the owner has approached the City with an application to permanently close and purchase the Subject Lands.

POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS

A by-law must be passed to permanently close the lands in accordance with the Municipal Act, 2001.

The recently supported Alleyway Management Program endeavours to address citizen inputs, interests and concerns while balancing the overall benefit to the local community. Staff considers this closure and sale advantageous to the surrounding area in terms of aesthetic improvements and security.

The closure of this alley supports the Strategic Plan objectives of enhancing overall sustainability and implementing processes to improve effectiveness and efficiency.

RELEVANT CONSULTATION

As part of the process to permanently close and sell a public alleyway, notice of the proposed alley closure is sent to all registered owners of properties located within a 400 foot (121.9 metre) radius of the Subject Lands, as shown on Appendix B, attached to Report PW13072. In this instance, there were 72 property owners notified. There were 11 responses received in support of the application. There were no responses received in opposition to the application. No other property abutting the Subject Lands expressed any opposition to the closure or any interest in purchasing any portion of the Subject Lands.

The following City Departments and Divisions were provided with a copy of this application and invited to provide comments:

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- Planning and Economic Development Department: Development Engineering, Building Services, Economic Development and Real Estate and Planning
- Public Works Department: Engineering Services, Hamilton Water, Operations, Transportation and Corporate Assets and Strategic Planning
- Hamilton Emergency Services
- Corporate Services Department: Budgets and Finance
- Mayor and Ward Councillor

The Building Services Division does not oppose the application but advises that merging of the alley together with 609 - 615 Upper James Street may change the configuration of the lot including the rear parking area. "If the parking area is altered, it shall conform to the parking regulations of Section 18A of Hamilton Zoning By-law. If compliance with these requirements cannot be achieved, a successful application for minor variance will be required." Building Services also advises that the portion of the lane zoned "DE-3/S-911" does not permit commercial uses including a medical office. As such, a successful application for a rezoning may be required to permit the intended commercial (medical office) use. The foregoing applications cannot proceed until the recommendations contained in Report PW13072 are approved.

Public utilities including Horizon Utilities, Hydro One, Bell and Union Gas were circulated for comment. Bell advises that they will require an easement.

ANALYSIS / RATIONALE FOR RECOMMENDATION

As the responses received from the neighbourhood were all in favour of the closure and as no negative comments were received from any commenting agencies, staff do not oppose the permanent closure and sale of the Subject Lands.

ALTERNATIVES FOR CONSIDERATION

Alternatively, the application to close and sell the Subject Lands could be denied and therefore, the Subject Lands would remain a public unassumed alleyway. However, the City does not currently maintain the Subject Lands and transferring the Subject Lands to private ownership would relieve the City of any potential future maintenance costs and liability therefore staff are not recommending the alternative of retaining the Subject Lands. Should the City retain the Subject Lands it would also result in a loss of revenue from the sale of the lands at fair market value.

ALIGNMENT TO THE 2012 - 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

1.1 Continue to grow the non-residential tax base.

APPENDICES / SCHEDULES

Appendix A - Aerial Drawing

Appendix B - Location Plan

APPENDIX A
REPORT PW13072



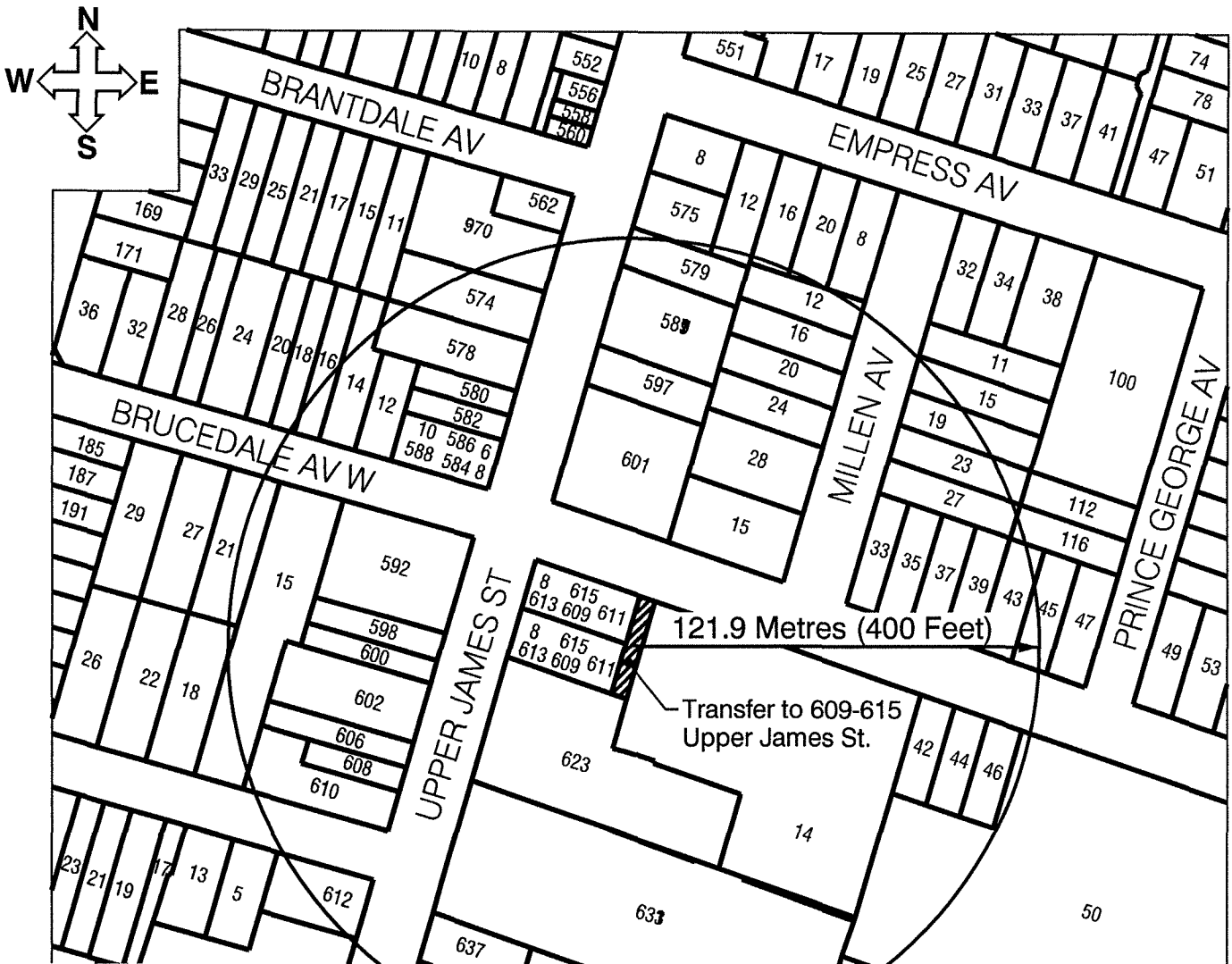
Sketch of Lands At
609, 615 UPPER JAMES ST

Geomatics and Corridor Management
Public Works Department



Hamilton

SCALE 1:250
03-20-2013
Sketch By: MM



LOCATION PLAN

PROPOSED PERMANENT CLOSURE AND
SALE OF A PORTION OF PUBLIC UNASSUMED
ALLEY ABUTTING

609, 615 UPPER JAMES ST

CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT

LEGEND



SUBJECT LANDS

DATE March 20, 2013

Not to Scale

REFERENCE FILE NO PW10_



Hamilton
Public Works Department