



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Corporate Assets & Strategic Planning Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	May 22, 2014
SUBJECT/REPORT NO:	Permanent Closure and Sale of a Public Unassumed Alleyway Abutting 15 Cottrill Street (PW14043) - (Ward 1)
WARD(S) AFFECTED:	Ward 1
PREPARED BY:	Adam Sweedland, Supervisor (905) 546-2424, Extension 5089
SUBMITTED BY:	Gerry Davis, CMA General Manager Public Works Department
SIGNATURE:	

RECOMMENDATION

- (a) That the public unassumed alleyway abutting 15 Cottrill Street, Hamilton, be permanently closed and sold to the owner of 15 Cottrill Street, Hamilton, as shown on Appendix A, attached to Report PW14043 (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 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 applicant deposit a reproducible copy of said plan with the Manager, Geomatics and Corridor Management Section;
- (b) That provided the application to the Ontario Superior Court of Justice to permanently close the Subject Lands is approved:
- (i) That the City Solicitor be authorized and directed to prepare the by-law to permanently close the highway;

**SUBJECT: Permanent Closure and Sale of a Public Unassumed Alleyway
Abutting 15 Cottrill Street (PW14043) - (Ward 1) - Page 2 of 4**

- (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 a nominal fee (one dollar);
- (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 15 Cottrill Street, Hamilton has submitted an application to permanently close and purchase a public unassumed alley which abuts the south side of the applicant's property. The applicant has been maintaining the property and would like to purchase the Subject Lands to enhance his property.

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 an interest in purchasing any portion of the Subject Lands, staff do not oppose the permanent closure and sale of the Subject Lands to the owner of 15 Cottrill Street, Hamilton.

Alternatives for Consideration – See Page 4

FINANCIAL - STAFFING - LEGAL IMPLICATIONS

Financial: The Subject Lands will be transferred to the owner of 15 Cottrill Street, Hamilton, for a nominal fee (one dollar), in accordance with the City's policy regarding the sale of public unassumed alleyways abutting 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 a by-law to permanently close the Subject Lands and will register it in the Registry Office once Council has approved the by-law. The City Solicitor will complete the transfer of the Subject Lands to the owner of 15 Cottrill 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 15 Cottrill Street, Hamilton, has a public unassumed alleyway abutting the side of the applicant's property on the south. The alleyway extends the length of the applicant's property stopping at a fence behind a property on Binkley Road. The owner of 15 Cottrill Street has been maintaining the alleyway and would like to make further efforts to maintain the alleyway and integrate it into their property to improve the aesthetics and functionality. Accordingly, they have submitted an application to permanently close and purchase the alleyway abutting the applicant's property.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

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

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

RELEVANT CONSULTATION

As part of the process to permanently close and sell a public alleyway, notice of the proposed alleyway 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 PW14043. In this instance, there were 124 property owners notified. There were 4 responses received in support of the application. There were no responses received in opposition to the application.

There are two other properties which abut the Subject Lands, 1580 Main Street West, to the south and 14 Binkley Road, to the west. Additional opportunities via mail and telephone messages were provided for these abutting owners to discuss the proposed closure and sale, but there were no return replies. Neither property owner has indicated opposition to the closure nor expressed 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:

- 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

**SUBJECT: Permanent Closure and Sale of a Public Unassumed Alleyway
Abutting 15 Cottrill Street (PW14043) - (Ward 1) - Page 4 of 4**

No comments were received in opposition to this application from any City Department or Division.

Public utilities including Horizon Utilities, Bell and Union Gas were circulated for comment and no comments were received in opposition to this application.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The permanent closure and sale of the Subject Lands will divest the City of lands which are surplus to the City's needs and which will eliminate potential future maintenance and liability associated with the City's continued ownership of the Subject Lands. As there is no opposition to this application from neighbouring property owners, City Departments and Divisions or any public utilities, staff do not oppose the permanent closure and sale of the Subject Lands.

ALTERNATIVES FOR CONSIDERATION

The application to close and sell the Subject Lands could be denied, in which case 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, as well as any potential liability. Staff do not recommend this alternative.

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

1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

Strategic Objective

2.1 Implement processes to improve services, leverage technology and validate cost effectiveness and efficiencies across the Corporation.

2.3 Enhance customer service satisfaction.

APPENDICES AND SCHEDULES ATTACHED

Appendix A - Aerial Drawing

Appendix B - Location Plan