



**CITY OF HAMILTON**  
**PUBLIC WORKS DEPARTMENT**  
**Engineering Services Division**

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| <b>TO:</b>                | Chair and Members<br>Public Works Committee   |
| <b>COMMITTEE DATE:</b>    | January 12, 2015  |
| <b>SUBJECT/REPORT NO:</b> | Permanent Closure of a Portion of Public Assumed Alley<br>Abutting No. 12 and 14 James Street North, Hamilton<br>(PW15003) - (Ward 2) |
| <b>WARD(S) AFFECTED:</b>  | Ward 2  |
| <b>PREPARED BY:</b>       | Marilyn Preston<br>(905) 546-2424, Extension 4298   |
| <b>SUBMITTED BY:</b>      | Gerry Davis, CMA<br>General Manager<br>Public Works Department  |
| <b>SIGNATURE:</b>         |   |

**RECOMMENDATION**

That a portion of the public assumed alleyway abutting 14 James Street North, Hamilton, running east/west from James Street North to the easterly limit of 14 James Street North, Hamilton (the Subject Lands), be permanently closed, as shown on Appendix "A" to Report PW15003, and sold to Core Urban Inc. or its nominee ("Core Urban"), subject to the following conditions;

- (a) That Core Urban obtain legal title to lands and premises directly abutting the Subject Lands;
- (b) That the Manager, Geomatics and Corridor Management, be authorized and directed to prepare and deposit a reference plan under the Registry Act showing the parts of the public assumed alley to be closed;
- (c) That Core Urban agrees to enter into any right-of-way agreements for pedestrian access with abutting land owners;
- (d) That the City Solicitor be authorized and directed to prepare the appropriate by-law to permanently closed the highway respecting the Subject Lands, and such other documents necessary to carry out the directions of Council, all in a form satisfactory to the City Solicitor;
- (e) That the appropriate by-law be introduced and enacted by Council;
- (f) 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;
- (g) 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;

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- (h) That the Public Works Department, by inclusion in this report, is providing sufficient notice of the City's intent to convey the subject land pursuant to City of Hamilton By-law 14-204, being the Sale of Land Policy By-law;
- (i) That the Real Estate Section, Economic Development Division, Planning and Economic Development Department, be authorized and directed to negotiate an Agreement of Purchase and Sale with the abutting owner, Core Urban, at the nominal consideration of \$2.00, prior to the enactment and registration of a by-law to close the alley pursuant to Section 34 of the Municipal Act and subject to conditions (a),(b),(c),(d),(e),(f),(g) above. Said transfer of the alley shall not be completed until after a certified copy of the by-law permanently closing the alley is registered in the land registry office.

### **EXECUTIVE SUMMARY**

The public assumed alley running east/west from James Street North, Hamilton, to the easterly limits of 14 James Street North, Hamilton has been temporarily closed to vehicular traffic by the City due to safety concerns regarding sub-surface structural deterioration. Core Urban is involved in the development of lands on either side of the alley for commercial purposes and has proposed to purchase the alley from the City to facilitate its development. The closure and sale of the alley would allow the City to achieve a number of goals identified in its strategic plan, and in particular support privately financed economic development near a main intersection in the downtown core, expand commercial uses of properties involved, increase associated tax revenues for the City and avoid the expense of repairs and other costs related to the public assumed alley. As is the City's policy, municipal departments and public utilities were advised of the proposal. As well, notices of the proposal were hand delivered to the properties in the block bounding the Subject Lands. As a condition of approval, the City will require Core Urban to provide access to and egress from the properties on the south side of the alley through a pedestrian right of way. The right of way will provide 5' (1.5m) pedestrian corridor situated on the south side of the alley, extending from a point ten feet east of the north-westerly limit of the rear of No. 12 James Street North to the easterly limit of the rear of 14 James Street North Core Urban has also agreed to enter into any right-of-way agreements with abutting property owners required for pedestrian access. On the above basis staff recommend the permanent closure and sale of the Subject Lands at the nominal consideration of \$2.00, to Core Urban, subject to conditions. Updates will be provided to Committee on discussions with Horizon Utilities and in respect of possible shared sewer services and ongoing investigations and discussions, which may alter the recommendations or implications.

***Alternatives for Consideration - See Page 4***

### **FINANCIAL - STAFFING - LEGAL IMPLICATIONS**

Financial: The Subject Lands will be transferred for a nominal fee (two dollars), in accordance with an agreement between the City and Core Urban. The

sale of the Subject Lands would avoid City repair costs and the cost of ongoing maintenance of the alley, which costs would far exceed the market value of the land.

**Staffing:** An agreement to purchase the Subject Lands will be negotiated by the Real Estate Section, Economic Development 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, to take effect upon transfer of the Subject Lands to Core Urban. The City Solicitor will complete the transfer of the Subject Lands pursuant to an executed Offer to Purchase for \$2.00 consideration as negotiated by the Real Estate Section, Economic Development Division. The City Solicitor will ensure the preparation or execution of any required documents and agreements to carry out the directions of Council.

## **HISTORICAL BACKGROUND**

The public assumed alley abutting 14 James Street North, Hamilton has fallen into a state of disrepair over the years. In order to ensure the vehicular safety of the public, the City has placed restrictive barriers at either end of the alley, and which limit some properties to the south in use of the alley for vehicles. For approximately the past three years the alley has been used only for pedestrian access, stopping travel by vehicles or as was sometimes the case its use for vehicle-carried deliveries. During the necessary restrictions garbage pick-up was arranged from public streets, other deliveries also had to be made from King or James Streets or by pedestrian delivery from vehicles in the still open portion of the public assumed alley from King William Street. The proposed pedestrian right of way would effectively make this arrangement permanent, unless Core Urban after its own repairs decides whether vehicle use would be allowed in the former alley on any basis. Core Urban has development plans involving the properties on either side of the alley and has proposed to permanently close and purchase the Subject Lands to expand the development, which would allow the City to avoid significant repairs and associated alley costs.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

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

The Public Works Department has published a notice pursuant of the City's intention to pass a by-law pursuant to City of Hamilton By-law 14-204, being the Sale of Land Policy By-law.

## **RELEVANT CONSULTATION**

The following City Departments and Divisions were invited to provide comments on the proposed closure and no negative comments were received:

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- Planning and Economic Development Department: Development Engineering, Building Services, Parking and By-law Services, Economic Development and Real Estate and Planning
- Public Works Department: Engineering Services, Hamilton Water, Operations, Transportation and Corporate Assets and Strategic Planning
- Community and Emergency Services: Hamilton Fire
- Corporate Services Department: Budgets and Finance
- City Manager's Office: Legal Services
- Mayor and Ward Councillor

Public Utilities including Horizon Utilities, Union Gas and Bell were notified of the proposal. Horizon Utilities had responded that wiring conduits through the alley would require an easement over the Subject Lands. As of the writing of this report, an easement seems unlikely to be necessary and a meeting is being arranged between staff, Horizon and Core Urban to discuss options and the desired approach for the development. Further the possibility of shared sewer connections from adjacent properties has been raised and will result in further investigations discussions. Staff will update Committee on the outcome of these discussions.

Notices addressed to the property owners were hand delivered to all properties within the block bounding the Subject Lands. At the time of the writing of this report, no responses had been received. However, both the hand delivered notice and the required newspaper advertisement advised property owners they could register as a delegation in advance of, or attend the Public Works Committee to speak to the proposal.

### **ANALYSIS AND RATIONAL FOR RECOMMENDATION**

No negative comments were received from any municipal departments. Core Urban is in discussion with Horizon Utilities on the wiring conduits located in the alley which are almost entirely above surface. As the applicant has agreed to provide a 5' (1.5m) right-of-way walkway on the south side of the Subject Lands to provide for ingress and egress of properties on the south side of the Subject Lands, the significant costs of repairs and further on-going maintenance of the alley would be avoided by the City, and the clear economic development and strategic benefits involved, staff support the permanent closure and sale to Core Urban for nominal value. Prior to completion of required documentation Core Urban Inc. will confirm whether it is purchasing the Subject lands itself or through a nominee involved in the development.

### **ALTERNATIVES FOR CONSIDERATION**

The alley could remain public assumed. However, as the owner of the Subject Lands, the City would be required to expend a potentially substantial amount of funds to repair and maintain the alley for pedestrian and vehicular access. Permanently closing and

selling the lands to Core Urban would relieve the City of any obligations to repair and maintain the alley and is, therefore, the preferred 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**

1.1 Continue to growth the non-residential tax base.

1.3 Promote economic opportunities with a focus on Hamilton's downtown core, all downtown areas and waterfronts.

1.6 Enhance overall sustainability (financial, economic, social and environmental).

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix A Aerial Drawing - 14 James Street North

Appendix B Location Plan - 14 James Street North

Appendix C Pedestrian Right-of-Way - 14 James Street North