



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

<b>TO:</b>	Chair and Members Public Works Committee
<b>COMMITTEE DATE:</b>	April 20, 2015
<b>SUBJECT/REPORT NO:</b>	Proposed Permanent Closure and Sale of a Portion of Public Unassumed Alley Abutting 170 Locke Street North, Hamilton (PW15029) - (Ward 1)
<b>WARD(S) AFFECTED:</b>	Ward 1
<b>PREPARED BY:</b>	Marilyn Preston (905) 546-2424, Extension 4298
<b>SUBMITTED BY:</b>	Gerry Davis, CMA General Manager Public Works Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That the public unassumed alleyway abutting 170 Locke Street North, Hamilton, be permanently closed and sold to the owner of 170 Locke Street North, Hamilton, as shown on Appendix A, attached to Report PW15029 (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 to obtain the order;
  - (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;
  - (ii) That the appropriate by-law be introduced and enacted by Council;

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- (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;
- (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 170 Locke Street North, Hamilton has made application to permanently close and purchase a portion of public unassumed alley running north/south at the rear of the property. The applicant has previously purchased half of the abutting east/west alley (PW10041) and the intent is to merge the lands and eliminate any access to the property from the abutting alleys. There were no objections received from any City Departments or Divisions or any Public Utilities. There were objections from two properties abutting the alley citing concerns regarding access to their rear yards from the alley. However, these properties are south of the closure area and the owners will have access to the rear of their properties as well as access to Locke Street North from the intersecting public assumed alley running east/west at the south end of the alley. A property owner abutting the Subject Lands on the east side of the alley, fronting Crooks Street, has expressed an interest in purchasing half of the portion of alley abutting their property. Selling half of the portion of alley abutting their property would be an option. However, as the owner of 170 Locke Street North is the only resident to make application and pay the user fee, and as the applicant has already completed the required Reference Plan, staff support selling the entire portion of alley to the applicant.

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

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

**Financial:** The applicant has paid the Council approved 2012 user fee of \$2541.52. The Subject Lands will be transferred to the owner of 170 Locke Street North, Hamilton, for a nominal fee, 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.

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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 170 Locke Street North, 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 170 Locke Street North, Hamilton, has made application to permanently close and purchase a portion of public unassumed alley running north/south at the rear of the property. The applicant has previously purchased a portion public unassumed alley running east/west at the north side of the property and the intent is to merge the lands into the existing lot and eliminate access to the property from the abutting alleys.

### **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

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

### **RELEVANT CONSULTATION**

The following City Departments and Divisions and Public Utilities 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 and Corporate Assets & Strategic Planning
- Community & Emergency Services Department: Hamilton Emergency Services
- Corporate Services Department: Budgets and Finance
- Mayor and Ward Councillor
- Bell, Horizon Utilities and Union Gas

No negative comments were received from any City Departments and Divisions and no Public Utilities will require easement protection.

Notice of the proposal was sent to 162 property owners within a 400' (121.9 metre) radius of the Subject Lands, as shown on Appendix B, attached to Report PW15029 and the results were as follows:

In Favour: 3

Opposed: 3

No Comment: 1

Two of the respondents who were opposed to the application were concerned about losing access to the alley from the rear of their properties. However, access to the remainder of the alley will not be impacted by the closure as the applicant is only

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proposing to close and purchase the portion of alley abutting 170 Locke Street North where the unassumed alley currently terminates. These property owners also maintain access to Locke Street North from the intersecting east/west public assumed alley to the south. An owner abutting the Subject Lands on the east side, fronting Crooks Street, is opposed to the application and has expressed an interest in purchasing half of the alley abutting their property. However, as the owner of 170 Locke Street North was the first to make application, has paid a substantial user fee and has already prepared the required Reference Plan, it makes sense to sell the entire portion of alley to the applicant.

**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.

**ALTERNATIVES FOR CONSIDERATION**

The application to close and purchase 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 will relieve the City of any future liability issues.

The option of selling half of the alley to the abutting owner on the east side of the alley, fronting Crooks Street, could be an option. However, as the owner of 170 Locke Street North was the first to make application, has paid a significant user fee and has already completed the required Reference Plan.

**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*

**APPENDICES AND SCHEDULES ATTACHED**

- Appendix A Aerial Drawing - 170 Locke Street North, Hamilton
- Appendix B Location Plan - 170 Locke Street North, Hamilton
- Appendix C Location Photo - 170 Locke Street North, Hamilton