



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

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| TO: | Chair and Members Public Works Committee |
| COMMITTEE DATE: | June 5, 2017 |
| SUBJECT/REPORT NO: | Proposed Permanent Closure and Sale of a Portion of Public Unassumed Alley Abutting 208 MacNab Street North, Hamilton (PW17040) (Ward 2) |
| WARD(S) AFFECTED: | Ward 2 |
| PREPARED BY: | Marilyn Preston (905) 546-2424, Extension 4298 |
| SUBMITTED BY: | Gary Moore, P.Eng. Director, Engineering Services Public Works |
| SIGNATURE: | |

RECOMMENDATION

- (a) That a portion of the north/south public unassumed alley abutting 208 MacNab Street North, Hamilton, as shown on Appendix “A”, attached to Report PW17040 (the Subject Lands), be permanently closed and sold to the owner of 208 MacNab Street North, Hamilton, 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;

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- (ii) That the appropriate by-law be introduced and enacted by Council;
- (iii) That the Real Estate Section of the Planning and Economic Development Department be authorized and directed to sell the closed highway to the owner of 208 MacNab Street North, Hamilton, in accordance with By-Law 14-204, Sale of Land Policy By-Law, 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;
- (vii) That the applicant enters into agreements with any Public Utility requiring easement protection.

EXECUTIVE SUMMARY

The property located at 208 MacNab Street North, Hamilton abuts a public unassumed alley at the rear of the property. As the property owner would like to extend the limits of their backyard, they have made application to permanently close and purchase the abutting portion of alley. There were no objections received from any City Departments and Divisions of Public Utilities. There was one objection received from the owner of a property that does not abut the alley. As such, staff can support the permanent closure and sale to the owner of 208 MacNab Street North, Hamilton.

Alternatives for Consideration – See Page 4

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The applicant has paid the Council approved user fee of \$4,367.00. The Subject Lands will be transferred to the owner of 208 MacNab 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 Real Estate Section of the Planning and Economic Development Department.

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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 208 MacNab Street North, Hamilton, pursuant to an agreement of purchase and sale or Offer to Purchase as negotiated by the Real Estate Section of the Planning and Economic Development Department.

HISTORICAL BACKGROUND

The property located at 208 MacNab Street North, Hamilton abuts a portion of public unassumed alley at the rear of the property. The property owner would like to acquire the portion of alley to extend the limits of their rear yard. Therefore, they have submitted an application to permanently close and purchase the abutting portion of alley.

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, Economic Development, Real Estate and Planning
- Public Works Department: Engineering Services, Hamilton Water, Operations, Environmental Services and Transportation Planning Services
- Hamilton Emergency Services
- Corporate Services Department: Budgets and Finance
- Mayor and Ward Councillor
- Bell Canada, Hydro One, Horizon Utilities and Union Gas

There were no objections received from any City Departments and Divisions.

The Community Planning Division advises that although the lands fall within the limits of the Setting Sail Secondary Plan, the City may approve the closure as the subject portion of alley ends at the location of 208 MacNab Street and does not provide any through access to the properties to the south. The adjacent properties are able to be serviced from the public street and therefore the closure of this portion of alley will not impact adjacent properties.

There were no objections from any Public Utilities. Bell Canada has responded that they will require easement protection.

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Notice of the proposal was sent to property owners within a 400' (121.9 metre) radius of the Subject Lands, as shown on Appendix "B", attached to report PW17040. In this instance, there were 122 notices sent. There were 2 owners in favour of the closure, 2 who had no comment and 1 opposed. The 1 property owner opposed does not abut the subject alley.

As the alley is not currently maintained by the City and as the applicant is the last property abutting the alley and access will not be impeded for other abutting owners, staff support the closure and sale to the owner of 208 MacNab Street North, Hamilton.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As all City Departments, Divisions and Public Utilities support the application. As there was only one property owner opposed to the closure and sale and as that property owner does not abut the alley, staff support the application to permanently close the alley and transfer the lands to the owner of 208 MacNab Street North, Hamilton.

ALTERNATIVES FOR CONSIDERATION

The portion of alley could remain part of a public unassumed alley. However, as 208 MacNab Street North is the last property abutting the alley, staff support closing and selling the alley to the owner of 208 MacNab Street North to increase the limits of their rear yard.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

APPENDICES AND SCHEDULES ATTACHED

Appendix A: Aerial Drawing

Appendix B: Location Plan