



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

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 136 Park Row North, Hamilton (PW17041) (Ward 4)
WARD(S) AFFECTED:	Ward 4
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 alleyway abutting 136 Park Row North, Hamilton, as shown on Appendix "A", attached to Report PW17041 (the Subject Lands), be permanently closed and sold to the owner of 136 Park Row 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;

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

SUBJECT: Proposed Permanent Closure and Sale of a Portion of Public Unassumed Alley Abutting 136 Park Row North, Hamilton (PW17041) (Ward 4) - Page 2 of 4

- (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 136 Park Row 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 owner of 136 Park Row North, Hamilton, has erected an accessory building in the rear yard of the property which encroaches approximately two feet onto the abutting public unassumed alley. In order to comply with Planning and Economic Development regulations, the property owner has requested to purchase a portion of the alley to ensure the building is located on private property. As the alley is already encroached upon at various locations and as the alley is not currently accessible from either end, staff support permanently closing and selling a portion of the alley to the owner of 136 Park Row 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 136 Park Row 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.

**SUBJECT: Proposed Permanent Closure and Sale of a Portion of Public
Unassumed Alley Abutting 136 Park Row North, Hamilton
(PW17041) (Ward 4) - Page 3 of 4**

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 136 Park Row 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 owner of 136 Park Row North, Hamilton, has erected an accessory building in the rear yard of the property which encroaches approximately 2 feet onto the abutting public unassumed alley. In order to comply with Planning and Economic Development regulations, the accessory building must be located on private property. Therefore, the property owner has requested to permanently close and purchase a portion of the alley to legalize the location of the building.

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 and Public Utilities.

The Building Division advises the following:

Both the alley and the adjacent lands known as 136 Park Row North are located within the "C" district. Our records indicate the recognized use for 136 Park Row North is a single family dwelling, which is a permitted use. The "C" requires a minimum lot area of 360.0m² to be maintained for a single family dwelling. Please note that if the lands are merged on title, it does not appear that the minimum required lot area of 360.0m² can be achieved for

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Proposed Permanent Closure and Sale of a Portion of Public
Unassumed Alley Abutting 136 Park Row North, Hamilton
(PW17041) (Ward 4) - Page 4 of 4**

these lands. Therefore, a successful Committee of Adjustment application shall be obtained in order for the lands to be able to merge on title.

Bell Canada has advised they will require easement protection.

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 PW17041. In this instance, there were 106 notices sent. There were 4 owners in favour of the closure and sale and 3 opposed. Although those opposed are abutting the alley, they do not directly abut the portion the applicant is requesting to close. The following reasons for opposition have been received:

- People who do not abut the alley should not be involved in deciding what to do with the alley and 136 Park Row North is not the only one who has blocked the alley
- There will not be adequate access to clean the alleyway

As the alley is not currently maintained by the City and as the alley has already been blocked at several locations and is not accessible from either end, staff support the closure and sale to the owner of 136 Park Row North, Hamilton.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As the alley is already encroached upon and as the alley is not accessible from either end, staff support selling the portion of the alley to the owner of 136 Park Row North, Hamilton.

ALTERNATIVES FOR CONSIDERATION

The alley could remain a public unassumed alley. However, as the alley has already been blocked in several locations and as purchasing the portion of alley will allow the owner of 136 Park Row North, Hamilton, to maintain his rear yard accessory building, staff support the closure and sale of the portion of alley.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Built Environment and Infrastructure

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

APPENDICES AND SCHEDULES ATTACHED

Appendix A: Aerial Drawing

Appendix B: Location Plan