



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	April 16, 2018
SUBJECT/REPORT NO:	Proposed Permanent Closure and Sale of a Portion of Public Assumed Alley Abutting 60 King William Street, Hamilton (PW18032) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Gary Kirchknopf, Senior Project Manager Corridor Management (905) 546-2424, Extension 7217 Cetina Farruggia, Road Programming Technician Corridor Management (905) 546-2424, Extension 5803
SUBMITTED BY:	Gord McGuire Geomatics and Corridor Management Public Works
SIGNATURE:	

RECOMMENDATION

That the application of King William Residences Inc. to permanently close and purchase a portion of the assumed alleyway abutting the West side of 60 King William Street, Hamilton, ("Subject Lands"), as shown on Appendix "A", attached to Report PW18032, be approved, subject to the following conditions:

- (a) That the applicant be fully responsible for the deposit of a reference plan in the proper land registry office, 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 also deposit a reproducible copy of said plan with the Manager, Geomatics and Corridor Management Section;
- (b) That, subject to any required application to the Ontario Superior Court of Justice to permanently close the Subject Lands being approved:
 - (i) The City Solicitor be authorized and directed to prepare all necessary by-laws to permanently close and sell the alleyway, for enactment by Council;
 - (ii) The Real Estate Section of the Planning and Economic Development Department be authorized and directed to sell the closed alleyway to King William Residences Inc., as described in Report PW18032, in accordance with the City of Hamilton Sale of Land Policy By-law 14-204;

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- (iii) The City Solicitor be authorized and directed to register a certified copy of the by-laws permanently closing and selling the alleyway in the proper land registry office;
- (iv) The Public Works Department provide any required notice of the City's intention to pass the by-laws and/or permanently sell the closed alleyway pursuant to City of Hamilton Sale of Land Policy By-law 14-204;
- (c) That the applicant enters into agreements with any Public Utility requiring easement protection;
- (d) That the applicant enter into private agreements with those property owners abutting any portion of the full Alleyway and the City of Hamilton, to allow unobstructed access to their properties and to provide through access over an East/West portion of the Lands known as 43 King William Street as referenced in PED18013 and included as a holding provision in Zoning Amendment By-Law 18-011.

EXECUTIVE SUMMARY

King William Residences Inc. has applied to permanently close and purchase a portion of the public assumed alleyway running North/South at the West of the property known as 60 King William Street, Hamilton. The applicants' original application was for both the North/South and East/West portions of the alleyway in order to facilitate development plans. After correspondence between Public Works staff and Planning and Economic Development staff as well as input from abutting land owners, it was determined that only the North/South leg of the alleyway was required at this time to facilitate the development plans. In accordance with Zoning Amendment By-Law 18-011, the applicant is required to confirm ownership over the Subject Lands and provide proof of Right of Way agreements entered into with abutting land owners of the entire alleyway. Therefore, our recommendation is a product of this Council approved direction. There were no objections received from any City Departments, divisions, or public utilities. 9 objections were received from abutting property owners, whose access concerns have been addressed within our recommendation. As such, staff support the permanent closure and sale of the Subject Lands to King William Residences Inc.

Alternatives for Consideration – See Page 4

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The applicant has paid the Council approved user fee of \$4,454.00. The Subject Lands will be sold to King William Residences Inc., as determined by the Real Estate Section of the Planning and Economic Development Department, in accordance with the City of Hamilton Sale of Land Policy By-law 14-204.

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: Subject to any required application to the Ontario Superior Court of Justice to permanently close the Subject Lands being approved, the City Solicitor will prepare all necessary by-laws to permanently close and sell the Subject Lands and will register such by-laws in the Land Registry Office once Council has approved the by-law. The by-law does not take effect until the certified copy of the by-law is registered in the proper land registry office. The City Solicitor will complete the transfer of the Subject Lands to King William Residences Inc., pursuant to an agreement negotiated by the Real Estate Section of the Planning and Economic Development Department.

HISTORICAL BACKGROUND

The Subject Lands form part of an alleyway created by City By-Law No. 5515 Registered as BL1159. This By-Law closed the E/W portion of original alleyway that had through access onto Hughson Street, Hamilton and opened the North/South leg providing through access onto King William Street, Hamilton. On March 21, 2017, King William Residences Inc. made application to permanently close and purchase the full Alleyway. Staff received much objection from residents abutting the alleyway and proceeded to communicate with residents, planning staff, and the developers to come to a satisfactory agreement for all parties. On June 2, 2017 the applicant made a Zoning Amendment Application to Planning and Economic Development. On July 19, 2017 an onsite meeting was held with staff and residents to discuss access and service concerns. On January 16, 2018 PED Committee approved staff report PED18013. The Zoning Amendment By-Law 18-011 attached to that report included two holding provisions. First, that the applicant obtain ownership of the Subject Lands included in this report, and that the Applicant provide proof of entering into Right of Way agreements with land owners abutting this alleyway, over an E/W portion of the lands known as 43 King William Street, Hamilton, as referenced in PED18013.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The closure of the Subject Lands will be subject to any application required by the City. In addition, a by-law must be passed to permanently close the Subject Lands in accordance with the *Municipal Act, 2001*.

RELEVANT CONSULTATION

The following public utilities, City departments and divisions were provided with a copy of the application and were 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
- Hamilton Emergency Services

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- Corporate Services Department: Budgets and Finance
- Mayor and Ward Councillor
- Bell, Horizon Utilities/Alectra Utilities, Hydro One, and Union Gas

Union Gas and Bell have advised that they will require easement protection.

There were no objections received from any public utilities, City departments and divisions.

Transportation provided the following comments:

“These alley ways are part of the City's alley way improvement project to allow the improved the movement of goods, pedestrians and cyclists”

Notice of the proposal was sent to all abutting property owners of the Subject Lands, as shown on Appendix “B”, for comment. In this instance, there were 15 notices mailed, and the results are as follows:

In favour: 0

Opposed: 9

No comment: 0

Those opposed to the closure expressed concerns regarding access to the rear of their properties for deliveries and services. After communication with the applicant and as a holding provision within Zoning Amendment By-Law 18-011, an agreement was arranged to provide Right of Way access over a portion of the property known as 43 King William Street, Hamilton, to provide through access for residents from John Street, Hamilton to Hughson Street, Hamilton.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Since the applicant is willing to accommodate Right of Way agreements with all abutting land owners of the alleyway as well as the City of Hamilton over an E/W portion of the lands known as 43 King William Street, Hamilton, as referenced in report PED18013 and as staff have included these requirements within our recommendation, and as there were no objections received from any public utilities, City departments, or divisions, staff are supportive of the closure and sale of the Subject Lands to King William Residences Inc.

ALTERNATIVES FOR CONSIDERATION

The City could deny the application and the alleyway would remain public assumed.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Built Environment and Infrastructure

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APPENDICES AND SCHEDULES ATTACHED

Appendix A: Aerial Drawing

Appendix B: Location Plan