



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	August 16, 2018
SUBJECT/REPORT NO:	Proposed Permanent Closure and Sale of a Portion of Public Assumed Alley and a Portion of Public Unassumed Alley Abutting 286 Sanford Ave N and 276 Sanford Avenue North, Hamilton (PW18072) (Ward 3)
WARD(S) AFFECTED:	Ward 3
PREPARED BY:	Gary Kirchknopf Corridor Management (905) 546-2424, Extension 7217 Cetina Farruggia Corridor Management (905) 546-2424, Extension 5803
SUBMITTED BY:	Gord McGuire Director, Engineering Services Public Works
SIGNATURE:	

RECOMMENDATION

That the application of the owners of 286 Sanford Avenue North and 276 Sanford Avenue North, to permanently close and purchase a portion of the assumed and unassumed alleyway abutting the South side of 286 Sanford Ave N and the North Side of 276 Sanford Avenue North ("Subject Lands"), as shown on Appendix "A", attached to Report PW18049, be approved, subject to the following conditions:

- (a) That the applicant makes an application to the Ontario Superior Court of Justice, under Section 88 of the Registry Act, for an order to permanently close the Subject Lands, if required by the City, subject to:
 - (i) The General Manager of Public Works, or designate, signing the appropriate documentation to obtain any required court order;
 - (ii) The documentation regarding any required application to the Ontario Superior Court of Justice being prepared by the applicant, to the satisfaction of the City Solicitor;
- (b) 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

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Section, and that the applicant also deposit a reproducible copy of said plan with the Manager, Geomatics and Corridor Management Section;

- (c) 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 the owners of 286 Sanford Ave N and 276 Sanford Avenue North, Hamilton, as described in Report PW18072, in accordance with the City of Hamilton Sale of Land Policy By-law 14-204;
 - (iii) The City Solicitor be authorized to complete the transfer of the Subject Lands to the owners of 286 Sanford Ave N and 276 Sanford Avenue 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;
 - (iv) 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;
 - (v) 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.

EXECUTIVE SUMMARY

The owner of 286 Sanford Avenue North, Hamilton has applied to permanently close and purchase a portion of the public assumed and unassumed alleyway running East/West at the South side of their property for the purpose of expanding the current parking lot for the Westinghouse lands. Upon internal circulation, there were no objections received from any City Departments, Divisions, or Public Utilities. Upon external circulation, there was one in favour received from the owner of 276 Sanford Avenue North, who stated he has been using a portion of the assumed alleyway for parking for the past 20 years. He expressed he would be in favour of the closure and sale if he was able to purchase his portion of the alleyway. After correspondence with the initial applicant, being the owner of 286 Sanford Avenue North, an agreement was made to close and sell a portion of the westerly section of the Subject Lands to the owner of 276 Sanford Avenue North, and to sell a portion of the Easterly portion of the Subject Lands to the owner of 286 Sandford Avenue North so as to acquire enough land to meet minimum parking space standards. As the owners were both in agreement and there were no objections received from any other abutting land owners, City

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Departments, Divisions, or Public Utilities, staff are supportive of the closure and sale of the Subject Lands to the owners of 286 Sanford Avenue North and 276 Sanford Avenue North, Hamilton.

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 the owners of 286 Sanford Avenue North and 276 Sanford Avenue North, Hamilton, 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.

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 the owners of 286 Sanford Avenue North and 276 Sanford Avenue North, Hamilton, pursuant to an agreement negotiated by the Real Estate Section of the Planning and Economic Development Department.

HISTORICAL BACKGROUND

The majority of the westerly portion of Subject Lands is Part of Lot 13, Registered Plan 167 and was established by Judge's Order, as in Registered Instrument HA298258 and is assumed. A small portion of the Easterly portion of the Subject Lands was created by Registered Plan 167 and is unassumed. On February 20, 2018, an application was received by the owner of 286 Sanford Avenue North to close and purchase the Subject Lands to expand the limits of the existing parking lot of the Westinghouse building. Although assumed, the Subject Lands are not travelled and is impeded by vegetation. The owner of 276 Sanford Avenue North has provided comment regarding his historical use of a portion of the Subject Lands for parking for the past 20 years and made application to purchase a portion of the alleyway on June 17, 2018 to maintain a parking space. An agreement was made between the owners of 286 Sanford Avenue North and 276 Sanford Avenue North to divide the Subject Lands, in order to close and sell a portion of the Westerly portion of the Subject Lands to the owner of 276 Sanford Avenue North, and a portion of the Easterly portion of the Subject Lands to the owner of 286 Sanford Avenue North.

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

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

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 19 notices mailed, and the results are as follows:

In favour:1 Opposed:0 No comment:0

The owner of 276 Sanford Avenue North was in favour as long as he could purchase his portion of the alleyway to maintain the parking he has been using for the past 20 years.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As there were no objections received from any City Departments, Divisions, or Public Utilities, and no objections received from any abutting owners, and as an agreement as made between the owners of 286 Sanford Avenue North and 276 Sanford Avenue North to divide the alleyway, staff support the permanent closure and sale of the Subject Lands to the owners of 286 Sanford Avenue North and 276 Sanford Avenue North, Hamilton.

ALTERNATIVES FOR CONSIDERATION

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

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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