



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	June 17, 2019
SUBJECT/REPORT NO:	Proposed Permanent Closure and Sale of a Portion of Public Unassumed Alley Abutting 13 Avalon Place and 11 Avalon Place, Hamilton (PW19049) (Ward 3)
WARD(S) AFFECTED:	Ward 3
PREPARED BY:	Gary Kirchknopf (905) 546-2424 Ext. 7217 Cetina Farruggia (905) 546-2424 Ext. 5803
SUBMITTED BY:	Gord McGuire Director, Engineering Services Public Works
SIGNATURE:	

RECOMMENDATION(S)

That the application of the owner of 13 Avalon Place and 11 Avalon Place, Hamilton, to permanently close and purchase a portion of the unassumed alleyway abutting the west side of 13 Avalon Place and the east side of 11 Avalon Place, Hamilton, ("Subject Lands"), as shown on Appendix "A", attached to Report PW19049, 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; and
 - (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 Section, and

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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 enter into any requisite easement agreements necessary to affect the orderly disposition of the Subject Lands and to proceed to sell the closed alleyway to the owners of 13 Avalon Place and 11 Avalon Place, Hamilton, as described in Report PW19049, 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 13 Avalon Place and 11 Avalon Place, 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 publish 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;
- (d) That the applicant enters into agreements with any Public Utility requiring easement protection.

EXECUTIVE SUMMARY

On May 8, 2018 the City received an application from the owner of 13 Avalon Place, Hamilton to stop up and close a portion of the North/South leg of the alleyway, being Part A of the Subject Lands, in order to accommodate a side driveway with parking as on-street parking is limited along this corridor. The building located at 13 Avalon Place, Hamilton partially encroaches into the alleyway and the applicant has advised that her home has had damage over the years by vehicles trying to navigate the narrow laneway. There were no objections received from any City Departments, Divisions, or public utilities. There were 3 objections received from abutting land owners. One did not provide a reason for their objection. The owner of 11 Avalon Place, Hamilton advised they

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required enough space to accommodate an existing walkway out the side of their property, being Part B of the Subject Lands which has been accommodated through this report. Finally, the last objection had comments regarding also purchasing the east-west leg of the alleyway. This proposal was circulated and denied as a result of opposition received from the LRT division, and as a result, the Subject Lands were updated to only include the Southern portion of the North/South leg. As such, staff are in support of the application to close and sell the Subject Lands to the owner of 13 Avalon Place and 11 Avalon Place, Hamilton.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The applicant has paid the Council approved user fee of \$4,543.00. The Subject Lands will be sold to the owners of 13 Avalon Place and 11 Avalon Place, 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 13 Avalon Place and 11 Avalon Place, Hamilton, pursuant to an agreement negotiated by the Real Estate Section of the Planning and Economic Development Department.

HISTORICAL BACKGROUND

The Subject Lands are part of the alleyway created by Registered Plan 165. The alleyway is an unassumed L-shape with both a North/South and East/West Leg. The alleyway is also travelled and unencumbered. On May 8, 2018 the City received an application from the owner of 13 Avalon Place, Hamilton to stop up and close a portion of the North/South leg of the alleyway, being Part A of the Subject Lands in order to accommodate a side driveway with parking as on-street parking is limited along this corridor. The building located at 13 Avalon Place, Hamilton partially encroaches into the alleyway and the applicant has advised that her home has had damage over the years by vehicles trying to navigate the narrow laneway. There were no objections received from any City

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Departments, Divisions, or public utilities. There were 3 objections received from abutting land owners. One did not provide a reason for their objection. The owner of 11 Avalon Place, Hamilton advised they required enough space to accommodate an existing walkway out the side of their property, being Part B of the Subject Lands, which has been accommodated through this report. Finally, the last objection had comments regarding also purchasing the east-west leg of the alleyway. This proposal was circulated and denied as a result of opposition received from the LRT division, and as a result, the Subject Lands were updated to only include the Southern portion of the North/South leg. As such, staff are in support of the application to close and sell the Subject Lands to the owners of 13 Avalon Place and 11 Avalon Place, Hamilton.

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.

Bell and Alectra have advised that they will require easement protection.

Notice of the proposal was sent to all abutting property owners of the Subject Lands, as shown on Appendix "B" of report PW19049, for comment. In this instance, there were 8 notices mailed, and the results are as follows:

In favour: 0

Opposed: 3

No comment: 0

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There were 3 objections received from abutting land owners. One did not provide a reason for their objection. The owner of 11 Avalon Place, Hamilton advised they required enough space to accommodate an existing walkway out the side of their property, which has been accommodated through this report. Finally, the last objection had comments regarding also purchasing the east-west leg of the alleyway. This proposal was circulated and denied as a result of opposition received from the LRT division, and as a result, the Subject Lands were updated to only include the southern portion of the North/South leg.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

As there were no objections received from any City Departments, Divisions, and Public Utilities, and this report accommodates the opposition received from abutting land owners, staff recommend the closure and sale of the Subject Lands to the owner of 13 Avalon Place and 11 Avalon Place, Hamilton.

ALTERNATIVES FOR CONSIDERATION

The City could deny this application, and the Subject Lands would remain Public unassumed alleyway.

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” to Report PW19049 - Aerial Drawing

Appendix “B” to Report PW19049 - Location Plan