




CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	September 21, 2020
SUBJECT/REPORT NO:	Proposed Permanent Closure and Sale of a Portion of Public Unassumed Alley Abutting 31 Crooks Street and 35 Crooks Street, Hamilton (PW20017) (Ward 1)
WARD(S) AFFECTED:	Ward 1
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 owners of 31 Crooks Street and 35 Crooks Street, Hamilton, to permanently close and purchase a portion of the unassumed alleyway abutting 31 Crooks Street and 35 Crooks Street, Hamilton, ("Subject Lands"), as shown on Appendix "A" attached to Report PW20017, 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

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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;

- (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, right of way agreements, and/or other agreements deemed necessary to affect the orderly disposition of the Subject Lands and to proceed to sell the closed alleyway to the owners of 31 Crooks Street and 35 Crooks Street, Hamilton, as described in Report PW20017, 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 31 Crooks Street and 35 Crooks Street, 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 to waive and amend such terms and conditions to the Agreement of Purchase and Sale or Offer to Purchase as she considers reasonable to give effect to this authorization and direction;
 - (v) 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;
 - (vi) 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.

EXECUTIVE SUMMARY

The owners of 31 Crooks Street and 35 Crooks Street, Hamilton, have applied to permanently close and purchase a portion of the public unassumed alleyway running North/South at the rear of their properties to extend the limits of their rear yard. There were no objections from any City Department, Division, or Public Utilities, and no objections from any abutting land owner. As such, staff are supportive of the closure

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and sale of the Subject Lands to the owners of 31 Crooks Street and 35 Crooks Street, Hamilton.

Alternatives for Consideration – See Page 4

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The applicant has paid the Council approved user fee of \$4,634.00. The Subject Lands will be sold to the owners of 31 Crooks Street and 35 Crooks Street, 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 31 Crooks Street and 35 Crooks Street, Hamilton, 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 unassumed alleyway created by Registered Plan 284 in 1878. The southern egress of the alleyway was reconfigured in 1980 being Parts 2, 3, 4, and 6 on Plan 62R-5248. The Northern egress of the alleyway, being Part 1 on Plan 62R-18786 and Parts 1 & 2 on Plan 62R-19145 were closed and sold to abutting land owners for which approval was granted through PW10041 and PW15029. On February 28, 2019 an application to close and purchase Part A, as shown on Appendix “A” attached to Report PW20017, was received by the owner of 35 Crooks Street, Hamilton for the purpose of extending the limits of the property’s rear yard. Through the external circulation process, the owner of 31 Crooks Street, Hamilton indicated interest in acquiring their respective portion. On April 30, 2019 an application was received by the owner of 31 Crooks Street, Hamilton to close and purchase Part B, as shown on Appendix “A” attached to Report PW20017, for the purpose of extending the limits of the property’s year yard. As there were no objections from any City Department, Division, or Public Utilities, and no objections received from any abutting land owners, staff are

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supportive of the closure and sale of the Subject Lands to the owners of 31 Crooks Street and 35 Crooks Street, 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*.

Alleyway Management Strategy - Classification System (Report PW17008(a)):

The Subject Lands are classified as Hierarchy Class "D": Alleyway is unassumed and could be used for any of the following:

- commercial parking;
- public/private waste collection;
- special consideration; and
- access to rear yards or overland flow routes

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 has 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" attached to Report PW20017 for comment. In this instance, there were 40 notices mailed, and the results are as follows:

In favour: 0

Opposed: 0

No comment: 0

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

As there were no objections received from any City Departments, Divisions, or Public Utilities, and no objections from any abutting land owners, staff are supportive of the closure and sale of the Subject Lands to the owners of 31 Crooks Street and 35 Crooks Street, Hamilton.

ALTERNATIVES FOR CONSIDERATION

The City could deny this application and the Subject Lands would remain public highway.

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 PW20017 - Aerial Drawing

Appendix “B” to Report PW20017 - Location Plan