




**CITY OF HAMILTON**  
**PUBLIC WORKS DEPARTMENT**  
**Engineering Services Division**

<b>TO:</b>	Chair and Members Public Works Committee
<b>COMMITTEE DATE:</b>	September 21, 2020
<b>SUBJECT/REPORT NO:</b>	Proposed Permanent Closure and Sale of a Portion of Public Unassumed Alley Abutting 401 Victoria Avenue North, Hamilton (PW20060) (Ward 3)
<b>WARD(S) AFFECTED:</b>	Ward 3
<b>PREPARED BY:</b>	Gary Kirchknopf (905) 546-2424 Ext. 7217 Cetina Farruggia (905) 546-2424 Ext. 5803
<b>SUBMITTED BY:</b>	Gord McGuire Director, Engineering Services Public Works
<b>SIGNATURE:</b>	

**RECOMMENDATION(S)**

That the application of the owner of 401 Victoria Avenue North, Hamilton, to permanently close and purchase a portion of the unassumed alleyway abutting the south side of 401 Victoria Avenue North, Hamilton, ("Subject Lands"), as shown on Appendix "A", attached to Report PW20060, 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) That the City Solicitor be authorized to amend and waive such terms as they consider reasonable to give effect to this authorization and direction;
  - (iii) 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 Subject Lands to the owners of 401 Victoria Avenue North, Hamilton, as described in Report PW20060, in accordance with the City of Hamilton Sale of Land Policy By-law 14-204;
  - (iv) The City Solicitor be authorized to complete the transfer of the Subject Lands to the owners of 401 Victoria 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;
  - (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 owner of 401 Victoria Avenue North, Hamilton, has applied to permanently close and purchase a portion of the public unassumed alleyway abutting the south side of the property municipally known as 401 Victoria Avenue North, Hamilton to support future redevelopment of the site. The applicant owns property on both sides of the Subject Lands. There were no objections from any City department, division, or public utility. There were no objections from any abutting land owner. As such, staff are supportive of

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the closure and sale of the Subject Lands to the owner of 401 Victoria Avenue North, Hamilton.

**Alternatives for Consideration – See Page 4**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** The applicant has paid the Council approved user fee of \$4,634.00. The Subject Lands will be sold to the owners of 401 Victoria 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 401 Victoria Avenue North, 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 shown on plan RP-174 which was received in the Land Registry Office in 1883. On August 24, 2019, staff received an application for closure and sale by the owner of 401 Victoria Avenue North, Hamilton for the purpose of land consolidation required to support future redevelopment of the site. The applicant owns both properties that abut the alleyway and securing these lands will consolidate the lands into one parcel. There were no objections from any City Departments, Divisions, or Public Utilities, and no objections from any abutting land owner. As such, staff are supportive of the closure and sale to the owner of 401 Victoria Avenue North, 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*.

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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, Alectra Utilities, Hydro One, and Union Gas(Enbridge)

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", attached to Report PW20060 for comment. In this instance, there were 4 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 from any City Department, Division, or Public Utilities, and no objections received from any abutting land owner, staff are supportive of the closure and sale of the Subject Lands to the owner of 401 Victoria Avenue North, Hamilton.

## **ALTERNATIVES FOR CONSIDERATION**

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

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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” to Report PW20060 - Aerial Drawing

Appendix “B” to Report PW20060 - Location Plan