




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

<b>TO:</b>	Chair and Members Public Works Committee
<b>COMMITTEE DATE:</b>	March 22, 2021
<b>SUBJECT/REPORT NO:</b>	Proposed Permanent Closure and Sale of a Portion of Public Unassumed Alley Abutting 1044 Cannon Street East, Hamilton (PW21012) (Ward 3)
<b>WARD(S) AFFECTED:</b>	Ward 3
<b>PREPARED BY:</b>	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 1044 Cannon Street East, Hamilton, to permanently close and purchase a portion of the unassumed alleyway abutting the South and East side of 1044 Cannon Street East, Hamilton, ("Subject Lands"), as shown on Appendix "A", attached to Report PW21012, 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 that the applicant also deposit a reproducible copy of said plan with the Manager, Geomatics and Corridor Management Section;

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- (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 she considers 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 1044 Cannon Street East, Hamilton, as described in Report PW21012, 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 1044 Cannon Street East, 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 1044 Cannon Street East, Hamilton, has applied to permanently close and purchase a portion of the public unassumed alleyway running east-west and north-south at the rear and side of the property municipally known as 1044 Cannon Street East, Hamilton. There were no objections received by any City Departments, Divisions, or Public Utility. There were 2 objections received from abutting land owners. One objection did not provide reason for objection. The other objection related to rear access to parking which was addressed through the modification of the limits of the Subject Lands. As such, staff are supportive of the closure and sale of the Subject Lands to the owner of 1044 Cannon Street East, Hamilton.

## **Alternatives for Consideration – N/A**

## **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 1044 Cannon Street East, 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 1044 Cannon Street East, Hamilton, pursuant to an agreement negotiated by the Real Estate Section of the Planning and Economic Development Department.

## **HISTORICAL BACKGROUND**

The East-West leg of the Subject Lands was created by Registered Plan 386 in 1905 and the North-South leg of the Subject Lands was created by Registered Plan 442 in 1909. The alleyway is unassumed. On October 28, 2019 an application was received by staff from the owner of 1044 Cannon Street East, Hamilton to close and purchase the Subject Lands to clean up, maintain and facilitate increased security to the adjacent building on their property. As there were no objections received from any City Department, Division, or Public Utility, and the objection received from abutting land owner has been addressed, staff are supportive of the closure and sale of the Subject Lands to the owner of 1044 Cannon Street East, 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;

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- 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, Transportation Operations and Maintenance, and Environmental Services
- Hamilton Emergency Services
- Corporate Services Department: Budgets and Finance
- Mayor and Ward Councillor
- Bell, Alectra Utilities, Hydro One, and Enbridge 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 PW21012 for comment. In this instance, there were 20 notices mailed, and the results are as follows:

In favour: 2

Opposed: 2

No comment: 0

One of the opposed did not provide reason for their objection. The other opposed response was related to access to rear parking. Staff adjusted the limits of the Subject Lands to ensure access to parking would not be impacted by the closure and the owner removed their objection.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)**

As there were no objections from any City department, divisions, or public utilities, and objections received from abutting land owners have been addressed, staff are supportive of the closure and sale of the Subject Lands to the owner of 1044 Cannon Street East, Hamilton.

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**ALTERNATIVES FOR CONSIDERATION**

None

**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 PW21012 - Aerial Drawing

Appendix “B” to Report PW21012 - Location Plan