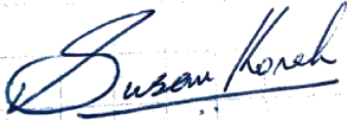




**CITY OF HAMILTON**  
**PUBLIC WORKS DEPARTMENT**  
**Engineering Services Division**

<b>TO:</b>	Chair and Members Public Works Committee
<b>COMMITTEE DATE:</b>	May 30, 2022
<b>SUBJECT/REPORT NO:</b>	Proposed Permanent Closure and Sale of Portion of Unassumed Alleyway abutting 67 Graham Avenue South, Hamilton (Ward 4) (PW22046)
<b>WARD(S) AFFECTED:</b>	Ward 4
<b>PREPARED BY:</b>	Cetina Farruggia (905) 546-2424 Ext. 5803
<b>SUBMITTED BY:</b>	Susan Jacob Acting Director, Engineering Services Public Works Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That the application of the owner of 67 Graham Avenue South, Hamilton, to permanently close and purchase a portion of the unassumed alleyway abutting the 67 Graham Avenue South, Hamilton, ("Subject Lands"), as shown on Appendix "A" attached to Report PW22046, be approved, subject to the following conditions:
  - (i) 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:
    - (1) The General Manager of Public Works, or designate, signing the appropriate documentation to obtain any required court order; and
    - (2) 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;

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Proposed Permanent Closure and Sale of Portion of Public Unassumed Alleyway abutting 67 Graham Avenue South, Hamilton (PW22046) (Ward 4) - Page 2 of 5**

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- (ii) 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;
- (iii) That, subject to any required application to the Ontario Superior Court of Justice to permanently close the Subject Lands being approved:
  - (1) The City Solicitor be authorized and directed to prepare all necessary by-laws to permanently close and sell the alleyway, for enactment by Council;
  - (2) That the City Solicitor be authorized to amend and waive such terms as they consider reasonable to give effect to this authorization and direction;
- (iv) The Corporate Real Estate Office 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 67 Graham Avenue South, Hamilton, as described in Report PW22046, in accordance with the City of Hamilton Sale of Land Policy By-law 14-204;
- (v) The City Solicitor be authorized to complete the transfer of the Subject Lands to the owners of 67 Graham Avenue South, Hamilton, pursuant to an Agreement of Purchase and Sale or Offer to Purchase as negotiated by the Corporate Real Estate Office of the Planning and Economic Development Department;
- (vi) 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;
- (vii) 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 67 Graham Avenue South, Hamilton, has applied to permanently close and purchase a portion of the public unassumed alleyway running north/south at the rear of their property for the purpose of cleaning up the parcel and installing perimeter fencing. There were no objections received from any City of Hamilton's (City) Departments, Divisions, or Public Utilities and no objections received from any abutting land owners. As such, staff are supportive of the closure and sale of the Subject Lands to the owners of 67 Graham Avenue South, Hamilton.

## **Alternatives for Consideration – Not Applicable**

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** The applicant has paid the Council approved user fee of \$4,868.50. The Subject Lands will be sold to the owners of 67 Graham Avenue South, Hamilton, as determined by the Corporate Real Estate Office 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 Corporate Real Estate Office 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 67 Graham Avenue South, Hamilton, pursuant to an agreement negotiated by the Corporate Real Estate Office of the Planning and Economic Development Department.

## **HISTORICAL BACKGROUND**

The Subject Lands are part of a public unassumed alleyway created by Plan of Subdivision RP-577 in 1913. The alleyway runs north/south and is predominantly untravelled as it is fully encroached upon by abutting landowners north of the Subject Lands. On April 13, 2021 staff received an application from the owners of 67 Graham

**SUBJECT: Proposed Permanent Closure and Sale of Portion of Public Unassumed Alleyway abutting 67 Graham Avenue South, Hamilton (PW22046) (Ward 4) - Page 4 of 5**

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Avenue South, Hamilton to close and purchase the Subject Lands so the owner can clean up the parcel and install perimeter fencing.

**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, Corporate Real Estate Office, 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.

Notice of the proposal was sent to all abutting property owners of the Subject Lands, as shown on Appendix "B" attached to Report PW22046 for comment. In this instance, there were 5 notices mailed, and the results are as follows:

In favour: 0

Opposed: 0

No comment: 0

**SUBJECT: Proposed Permanent Closure and Sale of Portion of Public  
Unassumed Alleyway abutting 67 Graham Avenue South, Hamilton  
(PW22046) (Ward 4) - Page 5 of 5**

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**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

As there were no objections received from any City Department, Division, or Public Utility and no objections from any abutting landowner, staff are supportive of the closure and sale of the Subject Lands to the owners of 67 Graham Avenue South, Hamilton.

**ALTERNATIVES FOR CONSIDERATION**

N/A

**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” attached to Report PW22046 - Aerial Drawing

Appendix “B” attached to Report PW22046 - Location Plan