




CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

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| TO: | Chair and Members Public Works Committee |
| COMMITTEE DATE: | May 30, 2022 |
| SUBJECT/REPORT NO: | Proposed Permanent Closure and Sale of Portion of Public Unassumed Alleyway abutting 192 East 22 nd Street, Hamilton (Ward 7) (PW22045) |
| WARD(S) AFFECTED: | Ward 7 |
| PREPARED BY: | Cetina Farruggia (905) 546-2424 Ext. 5803 |
| SUBMITTED BY: | Susan Jacob Acting Director, Engineering Services Public Works Department |
| SIGNATURE: |  |

RECOMMENDATION

- (a) That the application of the owner of 192 East 22nd Street, Hamilton, to permanently close and purchase a portion of the unassumed alleyway abutting 192 East 22nd Street, Hamilton, (Subject Lands), as shown on Appendix "A", attached to Report PW22045, 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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- (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 192 East 22nd Street, Hamilton, as described in Report PW22045, 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 192 East 22nd Street, 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 192 East 22nd Street, Hamilton, has applied to permanently close and purchase a portion of the public unassumed alleyway running east/west along the north side of the property for the purpose of creating private residential parking for the property. There were no objections received from any City of Hamilton's (City) Departments, Divisions, or Public Utilities. There were 6 opposed responses received from abutting land owners. Three of the opposed responses received did not provide reasons for opposition. One opposed response expressed interest in acquiring a portion of the laneway as well. Staff have not received an application from this resident to date. The final 2 opposed responses were due to issues related to the current condition of the laneway. As a result of these concerns, a request to Roadway Maintenance has been submitted. As all known concerns raised have been addressed, staff are supportive of the closure and sale of the Subject Lands to the owner of 192 East 22nd Street, Hamilton.

Alternatives for Consideration – Not Applicable

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 192 East 22nd Street, Hamilton, as determined by the Corporate Real Estate Office of the Planning and Economic Development Department, in accordance with the City 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 192 East 22nd Street, Hamilton, pursuant to an agreement negotiated by the Corporate Real Estate Office of the Planning and Economic Development Department.

HISTORICAL BACKGROUND

The Subject Lands form part of a public unassumed alleyway created by plan of subdivision RP-590 in 1913. The east/west portion of the alleyway is travelled, and the north/south portion of the alleyway is untravelled and encroached upon by abutting land owners.

On October 3, 2019 the owners of 192 East 22nd Street, Hamilton, submitted an application to close and purchase the Subject Lands in order to create parking for their property. While this original application was ongoing, these owners sold the property. On July 20th, 2021 staff received a new application from the current owner of 192 East 22nd Street, Hamilton to close and purchase the Subject Lands for the same purpose of creating parking space for their property.

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

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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 PW22045 for comment. In this instance, there were 14 notices mailed, and the results are as follows:

In favour: 0

Opposed: 6

No comment: 0

Three of the opposed responses received did not provide reasons for opposition. One opposed response expressed interest in acquiring a portion of the alleyway as well. Staff have not received an application from this resident to date. The final 2 opposed responses were due to issues related to the current condition of the alleyway. As a result of these concerns, a request to Roadway Maintenance has been submitted. As all known concerns raised have been addressed, staff are supportive of the closure and sale of the Subject Lands to the owner of 192 East 22nd Street, Hamilton.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As there were no objections from any City Department, Division, or Public Utility, and known concerns received from abutting land owners have been addressed, staff are supportive of the closure and sale of the Subject Lands to the owners of 192 East 22nd Street, 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 PW22045 - Aerial Drawing

Appendix “B” attached to Report PW22045 - Location Plan