



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	July 12, 2023
SUBJECT/REPORT NO:	Proposed Permanent Closure and Sale of Portion of Unassumed Alleyway Abutting 165 Burton Street, Hamilton (Ward 3) (PW23047)
WARD(S) AFFECTED:	Ward 3
PREPARED BY:	Cetina Farruggia (905) 546-2424 Ext. 5803
SUBMITTED BY:	Jackie Kennedy Director, Engineering Services Public Works Department
SIGNATURE:	

RECOMMENDATION

That the application of the owner of 165 Burton Street, Hamilton, to permanently close and purchase a portion of the unassumed alleyway abutting 165 Burton Street, Hamilton, ("Subject Lands"), as shown on Appendix "A" & "B", attached to Report PW23047, 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;
- (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

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- 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 165 Burton Street, Hamilton, as described in Report PW23047, 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 165 Burton 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;
- (viii) That the net proceeds of the sale of the Subject Lands be transferred to a new Project ID for the purpose to fund trees, beautification, park improvements and other open space improvements within Ward 3 to the satisfaction of the Manager, Parks and Cemeteries in consultation with the Ward Councillor.

EXECUTIVE SUMMARY

The owner of 165 Burton Street, Hamilton, has applied to permanently close and purchase a portion of the public unassumed alleyway abutting their property for the purpose of land consolidation to support potential future site development. There were no objections from any City department, division, or public utility and the applicant is the only abutting landowner. Staff are supportive of the closure and sale of the Subject Lands to the owner of 165 Burton Street, Hamilton.

Alternatives for Consideration – N/A

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The applicant has paid the Council approved user fee of \$4,641.95. The Subject Lands will be sold to the owners of 165 Burton Street, Hamilton, at fair market value, 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 165 Burton 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 were created by Registered Plan 209 in 1895. The Subject Lands are a remnant of the original alleyway that ran north/south and east/west in the block bound by Cheever Street, Burton Street, Wentworth Street North, and Keith Street, Hamilton shown on Registered Plan 209 closed by Judges Order in 1900 being registered Instrument HA69946. On August 5th, 2022 staff received an application from

the owner of 165 Burton Street, Hamilton, to close and purchase the Subject Lands to support land assembly required for potential future site development.

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, Transportation, and Environmental Services
- Hamilton Emergency Services
- Corporate Services Department: Financial Planning, Administration and Policy
- 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.

As the applicant is the only abutting landowner there was no external circulation required for this application.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As there were no objections received from any department, division, or public utility, and the applicant is the only abutting landowner, staff support the closure and sale of the Subject Lands to the owner of 165 Burton Street, Hamilton.

ALTERNATIVES FOR CONSIDERATION

N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Built Environment and Infrastructure

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APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PW23047 - Aerial Drawing

Appendix “B” to Report PW23047 - Location Plan