




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

<b>TO:</b>	Chair and Members Public Works Committee
<b>COMMITTEE DATE:</b>	October 15, 2024
<b>SUBJECT/REPORT NO:</b>	Proposed Permanent Closure and Sale of a Portion of Assumed Alleyway Abutting 830 Barton Street East, Hamilton (PW24063) (Ward 3)
<b>WARD(S) AFFECTED:</b>	Ward 3
<b>PREPARED BY:</b>	Laura-Lynn Fernandes (905) 546-2424 Ext. 6164
<b>SUBMITTED BY:</b>	Jackie Kennedy Director, Engineering Services Public Works / Engineering Services
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That the application of the owner of 830 Barton Street East, Hamilton, to permanently close and purchase a portion of the assumed alleyway abutting the south side of 830 Barton Street East, Hamilton ("Subject Lands"), as shown on Appendix "A", attached to Report PW24063, 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, 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;

**SUBJECT: Proposed Permanent Closure and Sale of Portion of Assumed Alleyway Abutting 830 Barton Street East, Hamilton (PW24063) (Ward 3) - Page 2 of 5**

---

- (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 830 Barton Street East, Hamilton, as described in Report PW24063, 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 830 Barton Street East, 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 830 Barton Street East, Hamilton, has applied to permanently close and purchase a portion of the public assumed alleyway running east-west at the rear of the property between Prospect Street North and Leinster Avenue North in Hamilton, for the purpose of merging the Subject Lands with their property to maintain and control access.

As there were no objections from any City department, division, or public utility, and there were no objections from any abutting landowners, staff are supportive of the closure and sale of the Subject Lands to the owner of 830 Barton Street East, Hamilton.

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

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

**Financial:** The applicant has paid the Council approved user fee of \$5,048.65. The Subject Lands will be sold to the owners of 830 Barton Street East, 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 830 Barton Street East, 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 619 in 1917. On July 29, 1969, the City passed By-law 69-160 to make local improvements to this alleyway, which changed the classification of the alleyway to “assumed”. On November 30, 2023, staff received

**SUBJECT: Proposed Permanent Closure and Sale of Portion of Assumed Alleyway Abutting 830 Barton Street East, Hamilton (PW24063) (Ward 3) - Page 4 of 5**

---

an application from The Diocese of Hamilton, being the owner of 830 Barton Street East, Hamilton, to close and purchase the Subject Lands to merge with their property for the purpose of maintaining and controlling access to the alleyway. Access will still be given to the abutting landowners, as needed.

**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 "B": Alleyway is assumed and could be used for any of the following:

- priority area;
- commercial parking and delivery area/route;
- public/private waste collection; and
- special consideration

**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.

Bell Canada 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 PW24063, for comment. In this instance, there were 2 notices mailed, and the results are as follows:

**SUBJECT: Proposed Permanent Closure and Sale of Portion of Assumed Alleyway Abutting 830 Barton Street East, Hamilton (PW24063) (Ward 3) - Page 5 of 5**

---

In favour: 0

Opposed: 0

No comment: 0

Staff did not receive any responses during the circulation period. However, easement protection will be granted to the 2 abutting landowners as a permanent right-of-way to egress and ingress their lands unencumbered, as shown on Appendix "B" attached to Report PW24063, based on discussions between the applicant and the abutting landowners and their expressed needs to maintain access.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

As there were no objections received from any City department, division, or public utility, and no objections received from any abutting landowner, staff are in support of the closure and sale of the Subject Lands to the owner of 830 Barton Street East, Hamilton, as shown on Appendix "A", attached to Report PW24063.

**ALTERNATIVES FOR CONSIDERATION**

N/A

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PW24063 - Aerial Drawing  
Appendix "B" to Report PW24063 - Location Plan