

CITY OF HAMILTON

PUBLIC WORKS DEPARTMENT
Operations and Waste Management Division

TO: Chair and Members Public Works Committee	WARD(S) AFFECTED: WARD 4
COMMITTEE DATE: June 18, 2012	
SUBJECT/REPORT NO: Proposed Permanent Closure and Sale of A Portion of Public Unassumed Alley Abutting 211 Park Row South, Hamilton (PW12048) - (Ward 4)	
SUBMITTED BY: John Mater, C.E.T. Acting General Manager Public Works Department	PREPARED BY: Marilyn Preston (905) 546-2424, Extension 4298
SIGNATURE:	

RECOMMENDATION

- (a) That a portion of the public unassumed alley abutting 211 Park Row South, Hamilton, be permanently closed and transferred to the owner of 211 Park Row South, Hamilton, as shown on Appendix B attached to Report PW12048, subject to the following conditions:
- (i) That the applicant makes an application to a District Court Judge, under Section 88 of the Registry Act, R.S.O. 1990, for an order to permanently close and purchase the subject lands;
 - (ii) That the General Manager, Public Works or his designate sign the appropriate documentation confirming that no public funds have been expended on the lands to be closed;
 - (iii) That the documentation regarding the application to the District Court Judge be prepared by the applicant, to the satisfaction of the City Solicitor;
 - (iv) That the applicant register a reference plan under the Registry Act and that said plan be prepared by an Ontario Land Surveyor to the satisfaction of the Manager, Surveys and Technical Services Section and that the applicant deposit a reproducible copy of said plan with the Manager, Surveys and Technical Services Section;

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- (b) That provided the Judge's Order to permanently close the lands is granted:
- (i) That the City Solicitor be authorized and directed to prepare the by-law to permanently close the highway;
 - (ii) That the appropriate by-law be introduced and enacted by Council;
 - (iii) That the Economic Development and Real Estate Division of the Planning and Economic Development Department be authorized and directed to sell this closed highway for one dollar, in accordance with the Procedural By-law for the Sale of Land, By-law No. 04-299;
 - (iv) That the City Solicitor be authorized and directed to register a certified copy of the by-law permanently closing the highway in the proper land registry office;
 - (v) That the by-law permanently closing the highway does not take effect until a certified copy of the by-law is registered in the proper land registry office;
 - (vi) That the Public Works Department publish a notice pursuant to Section 34 of the Municipal Act 2001, S.O. 2001, c. 25, as amended, of the City's intention to pass the by-law.

EXECUTIVE SUMMARY

The owner of 211 Park Row South, Hamilton has made an application to permanently close and purchase a portion of public unassumed alley abutting the property. The applicant intends to fence and maintain the lands which are overgrown and not maintained by the City.

The owner of 212 Province Street South, Hamilton, also abutting the subject lands, has provided documentation stating that they have no interest in purchasing their portion of the alley.

The portion of alley running from King Street East and ending at the subject lands appears to be used to access parking at the rear of the abutting businesses fronting on King Street East. Access to that portion of alley would not be impacted by the proposed closure.

The remaining portion of alley running from Justine Street between two properties at the end of the alley appears to be impassable and unused, and therefore not impacted by this closure.

It is recommended that the subject application to permanently close and sell the entire portion of alley abutting 211 Park Row South, Hamilton to the owner of that property, be approved.

Alternatives for Consideration - See Page 4

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FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: The owner of 211 Park Row South, Hamilton, has paid a user fee of \$3,282.05. The lands will be transferred to the abutting owner for one dollar, in accordance with the City's policy regarding the sale of public unassumed alleys abutting residential properties.

Staffing: An agreement to purchase the subject lands will be negotiated by the Economic Development and Real Estate Division.

Legal: The City Solicitor will prepare the by-law to permanently close the subject lands once Council has approved the closure and sale. The City Solicitor will complete the transfer of the subject lands to the owner of 211 Park Row South, Hamilton, pursuant to an agreement of purchase and sale or Offer to Purchase, as negotiated by the Economic Development and Real Estate Division.

HISTORICAL BACKGROUND

The owner of 211 Park Row South, Hamilton, has expressed concerns for their safety and security as their property abuts a portion of overgrown public unassumed alley which is not maintained by the City. In an effort to resolve the issue, the owner has made an application to permanently close and purchase the portion of alley abutting the property. As the other abutting owner at 212 Province Street South, Hamilton has presented staff with documentation indicating that he does not wish to purchase the half of the alley abutting his property, the applicant has proposed to close and purchase the entire parcel of abutting alley.

POLICY IMPLICATIONS

A by-law must be passed to permanently close the lands in accordance with the Municipal Act.

The closure and sale of the lands will fulfil the priorities established in the Public Works Business Plan within "Communities" as it reflects our desire to "establish mutually beneficial charters with external customers".

The recently supported Alleyway Maintenance Management Review endeavours to address alleyway disposition in a more comprehensive and strategic manner. It also recognizes citizen inputs, interests and concerns, and benefit to the local community as considerations. Staff considers that this closure and sale does not negatively impact on the surrounding area, and has the benefits of aesthetic improvements and security.

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RELEVANT CONSULTATION

Notice was circulated to property owners within a 400' (121.9m) radius of the subject property as shown on Appendix A attached to Report PW12048. Of the 106 notices sent, no respondents were opposed and six respondents were in favour of the proposed closure and sale.

The following City staff were consulted on this application and conveyed no negative comments on the proposed alley closure:

- Planning and Economic Development Department: Building Services, Development Engineering, Economic Development and Real Estate as well as Planning Divisions
- Public Works Department: Environment and Sustainable Infrastructure, Transportation, Energy and Facilities
- Hamilton Emergency Services
- Corporate Services Department: Budgets and Finance Division
- Ward Councillor

The Building Services Division advises that should the closure and sale be approved, a successful application for minor variance to the Committee of Adjustment will be necessary to allow the new lot to have an undersized lot width and undersized lot area.

Public Utilities were advised of the proposed closure and Bell will require easement protection.

ANALYSIS / RATIONALE FOR RECOMMENDATION

As there were no objections received from the public, municipal staff or public utilities and as the City does not maintain the lands, it is recommended that the application to close and transfer the portion of alley to the owner of 211 Park Row South, Hamilton, be approved.

ALTERNATIVES FOR CONSIDERATION

An alternative to the recommended closure would be that the application be denied and the alley remains as a public unassumed alley. The Alleyway Maintenance Management Review suggests that disposal of alleys should be approached in a strategic manner, and the closure may appear to be piecemeal in looking at it on Appendix A attached to Report PW12048. However, as the City does not maintain this unassumed alley and the overgrowth of trees and bushes precludes vehicular access, staff is not opposed to the closing of this portion of the alley. The transfer of the lands to private ownership would relieve the City of any future maintenance costs.

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CORPORATE STRATEGIC PLAN

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability,
3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development,
6. Environmental Stewardship, 7. Healthy Community

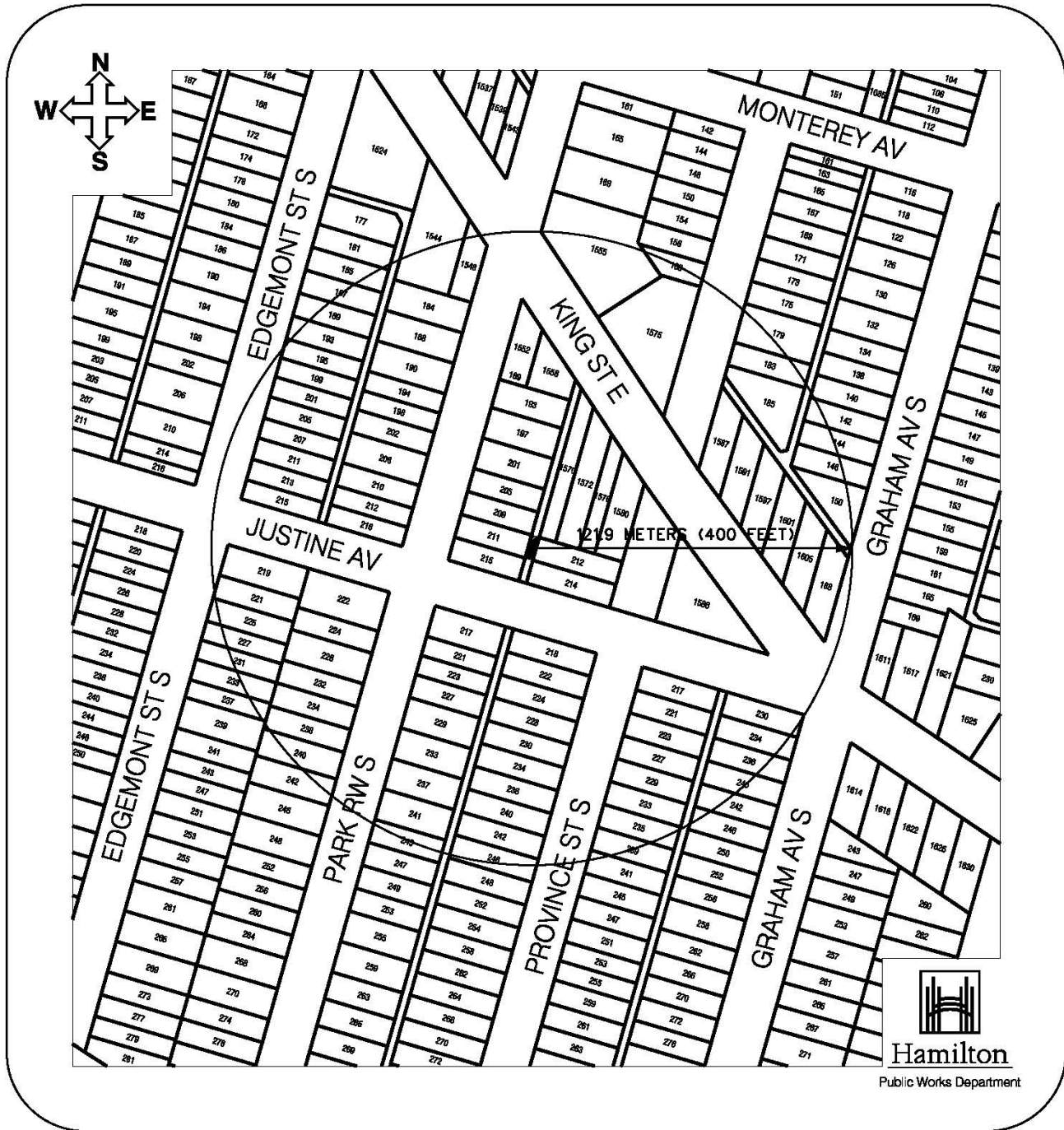
Healthy Community

- ◆ Plan and manage the built environment

APPENDICES / SCHEDULES

Appendix A - Location Plan

Appendix B - Sketch of Proposed Alley Division



LOCATION PLAN

PROPOSED CLOSURE OF
UNASSUMED ALLEY AT

211 PARK ROW SOUTH

CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT

LEGEND



SUBJECT LANDS

DATE: April 19, 2012

Not to Scale

REFERENCE FILE NO : PW10_



Sketch of Proposed Road Closure
211 PARK ROW SOUTH

Surveys & Technical Services
Public Works Department

SCALE 1:250
04-20-2012
Sketch By: MM