

CITY OF HAMILTON

PUBLIC WORKS DEPARTMENT
Operations and Waste Management Division

TO: Chair and Members Public Works Committee	WARD(S) AFFECTED: WARD 2
COMMITTEE DATE: November 5, 2012	
SUBJECT/REPORT NO: Permanent Closure and Sale of a Public Unassumed Alleyway Abutting 11 Liberty Street, Hamilton (PW12091) - (Ward 2)	
SUBMITTED BY: John Mater, C.E.T. Acting General Manager Public Works Department	PREPARED BY: Adam Sweedland (905) 546-2424, Extension 5089
SIGNATURE:	

RECOMMENDATION

- (a) That the public unassumed alleyway abutting 11 Liberty Street, Hamilton, as shown on Appendix A, attached to Report PW12091 (the "Subject Lands"), be permanently closed and transferred to the owner of 11 Liberty Street, Hamilton, subject to the following conditions:
- (i) That the applicant bring an application to the Ontario Superior Court of Justice, 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 Subject Lands;
 - (iii) That the documentation regarding the application to the Ontario Superior Court of Justice be prepared by the applicant, to the satisfaction of the City Solicitor;
 - (iv) That the applicant register a reference plan pursuant to 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 application to the Ontario Superior Court of Justice to permanently close the Subject Lands is granted:
- (i) That the City Solicitor be authorized and directed to prepare the by-law to permanently close the Subject Lands;
 - (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 Subject Lands, in accordance with the Procedural By-law for the Sale of Land, By-law No. 04-299 for \$1.00;
 - (iv) That the City Solicitor be authorized and directed to register a certified copy of the by-law permanently closing the Subject Lands in the proper land registry office, upon confirmation from the Public Works Department that all applicable fees and costs associated with the application have been paid by the applicant;
 - (v) That the by-law permanently closing the Subject Lands 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 notice of the City's intention to pass the by-law pursuant to City of Hamilton By-law 04-299 being a By-law to Establish Procedures, including the Giving of Notice to the Public, Governing the Sale of Land Owned by the City of Hamilton.

EXECUTIVE SUMMARY

The owner of 11 Liberty has submitted an application to permanently close and purchase the public unassumed alleyway abutting his property. Notice of the application was circulated to internal City Divisions, public utilities and owners of properties within a 400' (121.9m) radius of the Subject Lands, as shown on Appendix B, attached to Report PW12091. No negative comments regarding the application were received from internal City Divisions or public utilities. Two negative responses were received from owners of properties within the circulation radius and these responses have been reviewed and considered by staff. One abutting owner has requested that the City retain ownership of a portion of the Subject Lands to facilitate access to a property. Upon review, staff has determined that retaining ownership would land lock that portion of the subject lands. Furthermore, there are no impediments to access created by the sale of the Subject Lands as set out in the application. Operations & Waste Management staff is satisfied that there are no irresolvable issues and, as such, do not oppose the application.

Alternatives for Consideration - See Page 5

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FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: The Subject Lands will be transferred to the owner of 11 Liberty Street for \$1.00, in accordance with the City's policy regarding the sale of public unassumed alleyways abutting residential properties.

Staffing: There are no staffing implications.

Legal: The City Solicitor will prepare the by-law to permanently close the Subject Lands and will register this by-law in the Registry Office once it has been passed by Council. The City Solicitor will complete the transfer of the Subject Lands to the abutting owners, 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 11 Liberty Street has applied to close and purchase the public unassumed alleyway abutting 11 Liberty Street. The current City policy is to not perform maintenance in public unassumed alleyways. Therefore, the permanent closure and transfer of the lands to private ownership will relieve the City of any future maintenance responsibilities. Operations & Waste Management staff do not oppose the closure and sale of the Subject Lands to the applicant.

POLICY IMPLICATIONS

A by-law must be passed to permanently close the Subject Lands in accordance with the Municipal Act, 2001.

The recently supported Alleyway Management Program endeavours to address citizen inputs, interests and concerns however benefit to the local community needs to be considered as well. Staff does not consider the closure of the Subject Lands to disadvantage the surrounding area.

The closure of the Subject Lands supports the Strategic Plan objectives of enhancing overall sustainability and implementing a process to improve effectiveness and efficiency.

RELEVANT CONSULTATION

Notice of the proposed closure and sale was sent to the owners of the 125 properties within a 400' (121.9m) radius of the Subject Lands as shown on Appendix B, attached to Report PW12091. The City received a total of sixteen responses. Twelve responses supported the application, two responses opposed the application and two responses indicated no comment.

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The owner of one property located on Hunter Street East, which abuts the Subject Lands has indicated that they are in favour of the application. However, the owner did request that the City retain ownership of a triangular piece of property to facilitate access to the rear of the property. Staff has reviewed the information and determined that if the City retains ownership of a triangular piece of the Subject Lands as requested, that a City owned portion of the alleyway would be landlocked because title to the abutting alleyway is privately held. Furthermore, staff has determined that the proposed closure will not eliminate sole access to any property.

The two responses opposing the application consisted of the following:

The owner of one property located on Grove Street, which does not abut the Subject Lands, objected on the basis that they felt the closure would create additional traffic on Grove Street. However, vehicular access over unassumed alleyways is not guaranteed and this alleyway should not be used as a means of bypassing the existing open highways.

The owner of one property located on Hunter Street East, which does not abut the Subject Lands, objected on the basis that they felt the closure would render the east-west private alleyway inaccessible. The application does not purport to close off access to the east-west private alleyway.

The following City Departments and Divisions were consulted on this application:

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

Building Services Division staff advises that the current lot size is considered a lot of record, as it does not conform to the minimum required lot width or area for a single family dwelling. The property at 11 Liberty Street will lose non-conforming status if the Subject Lands are added to that property. As such, the Building Services Division advises that the applicant will require a successful application for minor variance from the Committee of Adjustment.

Environment & Sustainable Infrastructure Division staff advises that the applicant should be made aware that there is a need for a continued, unobstructed overland drainage route.

Bell Canada has indicated that the applicant will be required to complete an easement agreement.

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The remaining City Departments and public utilities did not have any negative comments

ANALYSIS / RATIONALE FOR RECOMMENDATION

As there were no unresolvable or compelling objections received from internal City Divisions, public utilities or neighbouring property owners, the application to close and transfer the Subject Lands to the owner of 11 Liberty Street is not opposed by staff.

ALTERNATIVES FOR CONSIDERATION

Alternatively, the application can be denied and the entire alleyway will remain in its public unassumed status. However, the City does not currently maintain this unassumed alleyway and transferring the Subject Lands to private ownership would relieve the City of any potential future maintenance costs.

CORPORATE STRATEGIC PLAN

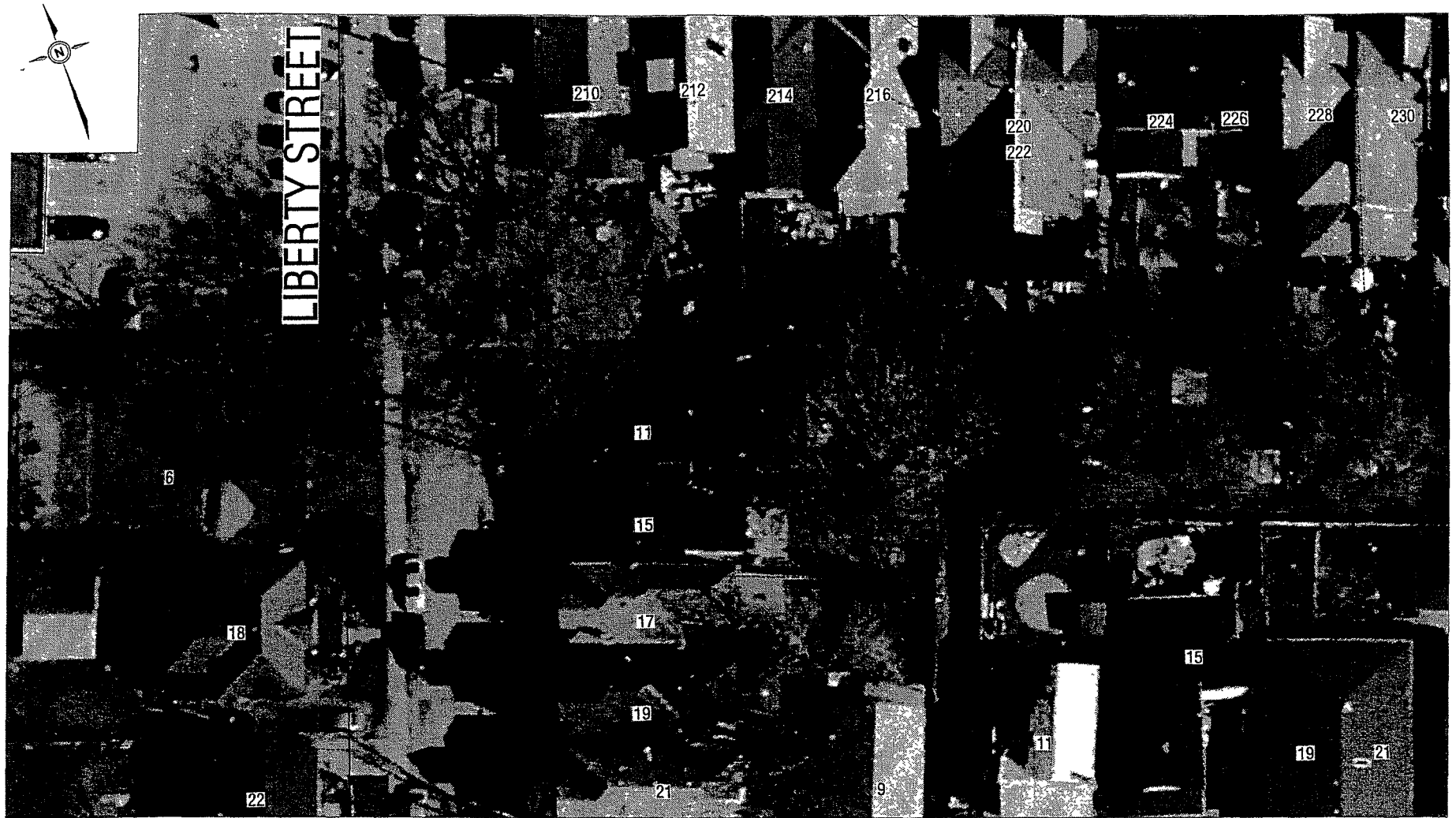
Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Healthy Community

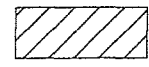
- ◆ Plan and manage the built environment

APPENDICES / SCHEDULES

Appendix A - Aerial Map
Appendix B - Location Map

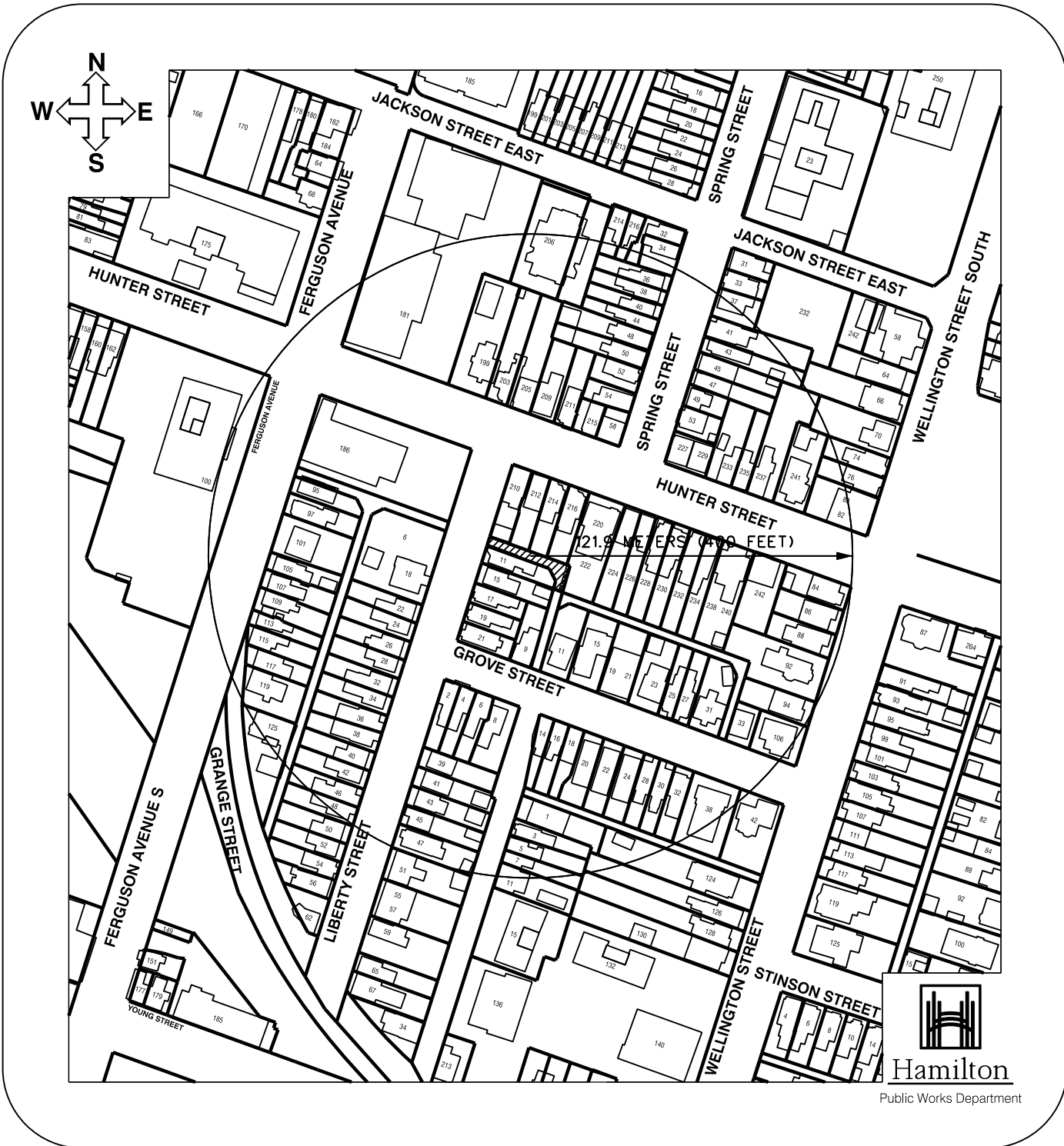


PROPOSED CLOSURE OF
UNASSUMED ALLEY ABUTTING
11 LIBERTY STREET
Surveys & Technical Services
Public Works Department



TRANSFER TO
11 LIBERTY STREET

NTS
05-20-2011
Sketch By MM




LOCATION PLAN

PROPOSED CLOSURE OF
UNASSUMED ALLEY ABUTTING

11 LIBERTY STREET

CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT

LEGEND



SUBJECT LANDS

DATE: MAY 20, 2011	Not to Scale
REFERENCE FILE NO : PW10__	