SUBJECT: Proposed Permanent Closure - Portion of Public Unassumed Alley Abutting 21 Garside Avenue North, Hamilton (PW07085) - (Ward 4)

RECOMMENDATION:

(a) That the application of the owner of 21 Garside Avenue North, to permanently close and purchase the section of public unassumed alley abutting the property, be approved, 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 Senior Project Manager, Survey and Technical Services and that the applicant deposit a reproducible copy of said plan with the Senior Project Manager, Survey and Technical Services;

(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 Development and Real Estate Division, Planning and Economic Development Department be authorized and directed to sell this closed highway 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.

Scott Stewart, C.E.T.
General Manager
Public Works

EXECUTIVE SUMMARY:
An application was submitted from the owner of 21 Garside Avenue North to permanently close and purchase a section of unassumed alley at the rear of the property. The applicant has a small yard and the intent is to merge the lands to create a larger property. As only one negative response to the public notice was received, this department supports the request.

BACKGROUND:
The information/recommendations contained within this report primarily affects Ward 4.
The owner of 21 Garside Avenue North has applied to permanently close and purchase a portion of public unassumed alley abutting the property.

Notice of the proposed closure and sale was circulated to municipal departments and public utilities and no negative responses were received.

Notice was circulated to a 400’ radius of the neighbourhood and the results are as follows:
Number Circulated: 109
In Favour: 3          Opposed: 1          No comment: 105

The respondent who is opposed is a property owner on Main Street and does not abut the subject alley. The reason for the opposition is that “blocking the alley is not appropriate”.

As the majority of the neighbourhood is in favour of the closure, this department supports the request to close and purchase the alley.
ANALYSIS/RATIONALE:
Notice was circulated to municipal departments, public utilities and a 400’ radius of the neighbourhood. No environmental assessment was required.

ALTERNATIVES FOR CONSIDERATION:
Alternatively, Council may choose to reject the recommendations leaving the alley open however it is essentially already closed as many property owners have erected fences across it.

As a further alternative, Council may choose to hold this application in abeyance pending a staff report targeted for later in 2007 addressing an ongoing review of alley management policies, and maintenance program services.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:
The applicant has paid the user fee of $313.65. The lands will be transferred for one dollar as per Council approved policy regarding residential properties abutting public un-assumed alleys.

POLICIES AFFECTING PROPOSAL:
The lands must be closed by By-law as per the Municipal Act.

RELEVANT CONSULTATION:
The Ward Councillor supports the request.

CITY STRATEGIC COMMITMENT:
By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. □ Yes  ☑ No

Environmental Well-Being is enhanced. □ Yes  ☑ No

Economic Well-Being is enhanced. □ Yes  ☑ No

Does the option you are recommending create value across all three bottom lines? □ Yes  ☑ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? □ Yes  ☑ No
PROPOSED CLOSURE
OF A PORTION OF PUBLIC
UNASSUMED ALLEY
21 GARSIDE AVE. N
CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT

LEGEND

SUBJECT LAND

SCALE
NOT TO SCALE

DATE
2007-06-13

REFERENCE FILE NO. PW07085