TO: Chair and Members  
Public Works Committee  
WARD(S) AFFECTED: WARD 1  

COMMITTEE DATE: March 1, 2010  

SUBJECT/REPORT NO:  
Proposed Permanent Closure and Sale of Portions of Public Unassumed Alley Abutting 48 Woodbine Crescent, Hamilton (PW10024) - (Ward 1)  

SUBMITTED BY:  
Gerry Davis, CMA  
General Manager  
Public Works Department  

PREPARED BY:  
Marilyn Preston  
(905) 546-2424, Extension 4298  

SIGNATURE:  

RECOMMENDATION:  

(a) That the application of the owners of 48 Woodbine Crescent in Hamilton to permanently close and purchase portions of the public unassumed alley abutting the east and south limits of 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/Technical Services and that the applicant deposit a reproducible copy of said plan with the Senior Project Manager, Survey/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 Economic 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.

EXECUTIVE SUMMARY

An application was submitted by the owners of 48 Woodbine Crescent in Hamilton to permanently close and purchase portions of the public unassumed alley abutting the east and south sides of the property, as outlined in Report PW10024 as Appendix ‘A’. Parts of the alley are currently overgrown and used for illegal dumping. The applicant intends to maintain the lands and possibly construct a parking area. As no objections were received from any of the other abutting owners, the Public Works Department supports the application.

Alternatives for Consideration - See Page 5

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: The applicant has paid a user fee of $319.93. The lands will be transferred for a nominal fee (one dollar) as per 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 and will register this by-law in the Registry Office once Council has approved it. The City Solicitor will complete the transfer of the subject lands to the applicant 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 owners of 48 Woodbine Crescent in Hamilton have submitted an application to permanently close and purchase portions of the public unassumed alley to the east and south of the property, as outlined in Report PW10024 as Appendix ‘A’. The closure and sale of the lands will alleviate concerns regarding illegal dumping as well as possibly providing off street parking for the applicant.

Notice of the proposal was circulated to a 400 foot (121.9 metre) radius of the neighbourhood for comment. Although there were some negative responses received, none of the respondents opposed to the closure are directly abutting the subject lands. The concerns expressed by those opposed were that people access their garages and parking spots from the alley. However, the proposed closure would not restrict access to any of these properties.

None of the comment cards, which were sent to the owners directly abutting the portions of alley, were returned to the Public Works Department. However, email documentation was forwarded by the agent for the applicant confirming that municipal numbers 16, 18 and 22 Jones Street are not opposed to the closure and sale to the owners of 48 Woodbine Crescent. As well, the Admiral Inn at 149 Dundurn Street North, also directly abutting the subject lands, has provided email confirmation that they are not opposed to the closure and sale to the owners of 48 Woodbine Crescent.

As the alley running north/south is currently not maintained and not accessible and as none of the owners directly abutting the lands are opposed, the Public Works Department supports the closure and sale of the lands to the owners of 48 Woodbine Crescent, Hamilton.

POLICY IMPLICATIONS

A by-law must be passed to permanently close the lands, in accordance with the Municipal Act. The process of closing the portions of alleys and transferring them to the applicant fulfils the Public Works Business Plan goal of establishing "mutually beneficial charters with external customers."

RELEVANT CONSULTATION

One hundred and four (104) property owners within a 400 foot (121.9 metre) radius of 48 Woodbine Crescent were notified of the proposal. There were seven (7) property owners in support, five (5) opposed and 92 did not respond.

The following City staff were consulted on this application:

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Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
• Planning and Economic Development Department: Development Engineering, Building Services, Planning, Economic Development and Real Estate Divisions
• Public Works Department: Environment and Sustainable Infrastructure, Transportation, Energy and Facilities and Operations and Waste Management Divisions
• Hamilton Emergency Services
• Corporate Services Department, Budgets and Finance Division
• Ward Councillor
• Mayor

Public utilities including Horizon Utilities, Bell and Union Gas were circulated for comments and no negative responses were received.

Comments were requested from municipal staff including staff from Public Works, Planning and Economic Development, Corporate Services and Hamilton Emergency Services.

The Planning Division has responded that they do not support the closure and sale of the alley as the closure would leave only one point of access for residents who use the alley for rear parking. As parking in this part of the neighbourhood is quite limited, Planning staff would prefer both alley accesses remain open. However, the subject alley is currently overgrown near the intersection with Woodbine Crescent indicating that it is not used as access to the rear of the properties fronting on Woodbine. The only access to these properties is from the east-west alley. As such, there would be no negative impact on those residents currently accessing parking at the rear of their properties.

Several discussions were held with the Ward Councillor who supports this alley closure.

ANALYSIS / RATIONALE FOR RECOMMENDATION

Comments were collected from a 400 foot (121.9 metre) radius of the neighbourhood and from municipal departments and public utilities.

ALTERNATIVES FOR CONSIDERATION:

One alternative would be that the application be denied and the alley remains City property. However, as the City does not perform maintenance in the alley and as the applicant intends to maintain it, transferring the lands to the applicant is the preferred option.
CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)


Skilled, Innovative & Respectful Organization
- More innovation, greater teamwork, better client focus

Healthy Community
- Plan and manage the built environment

APPENDICES / SCHEDULES

Appendix “A” - Location Plan
SUBJECT: Proposed Permanent Closure and Sale of Portions of Public Unassumed Alley Abutting 48 Woodbine Crescent, Hamilton (Ward 1)

LOCATION PLAN

PROPOSED CLOSURE OF PORTIONS OF UNASSUMED ALLEY 48 WOODBINE CRESCENT
CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT

LEGEND

SUBJECT LAND

SCALE NOT TO SCALE
DATE 2010-02-23

REFERENCE FILE NO: PW10024

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