SUBJECT: Proposed Permanent Closure and Sale of Public Unassumed Alleyways, Road Allowances and Public Walkway (PW07016) - (City Wide)

RECOMMENDATION:

(a) That the applications to permanently close and sell the following lands be approved:

(i) A portion of the public unassumed alleyway between 96 and 98 Chestnut Avenue, Hamilton, to the abutting property owners;

(ii) A portion of the public unassumed alleyway abutting 291 Park Row South, Hamilton, to the owner of 291 Park Row South;

(iii) A portion of the unopened road allowance abutting 1 Oak Knoll Drive, Hamilton, to the abutting property owners;

(iv) A portion of public unassumed alleyway at the rear of 825 and 831 Beach Boulevard, Hamilton, to the owner of 87 Rockcliffe Road;

(v) A portion of road allowance abutting 87 Rockcliffe Road, Flamborough, to the owner of 87 Rockcliffe Road;

(vi) A portion of unopened public walkway between 939 and 949 Stone Church Road East and 34 Ridley Drive, Hamilton, to the abutting property owners;

(b) That approval of these closures and sales be subject to the following conditions:

(i) That the applicants make 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 applicants register reference plans under the Registry Act and that said plans be prepared by an Ontario Land Surveyor to the satisfaction of the Senior Project Manager, Survey and Technical Services and that the applicants deposit a reproducible copy of said plans with the Senior Project Manager, Survey and Technical Services;

(c) That provided the Judge’s Orders to permanently close the lands is granted:

(i) That the City Solicitor be authorized and directed to prepare the By-laws to permanently close the highways;

(ii) That the appropriate By-laws 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 highways 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 certified copies of the By-laws permanently closing the highways in the proper land registry office;

(v) That the By-laws permanently closing the highways do not take effect until certified copies of the By-laws are 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-laws.

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

EXECUTIVE SUMMARY:

A number of requests have been received to permanently close various City lands and transfer them to the abutting owner(s). As the above noted closures received little opposition from the public and none from any municipal departments or public utilities, this Department supports the applications.

BACKGROUND:

The information/recommendations contained within this report have City wide implications.
The following applications to permanently close and purchase City lands have been received and are supported by this Department:

**A Portion of Public Unassumed Alley between 96 and 98 Chestnut Avenue, Hamilton - Ward 3**

The request is on behalf of the abutting owners to close and purchase a portion of the alley for parking purposes.

Notice was sent to a 400’ radius of the neighbourhood (226 properties) and results are as follows:

In Favour: 12  
Opposed: 3  
No Comment: 211

Those opposed state that they use the alley to walk children to school and that closing the alley would force people to use the alternate alley entrance off Kinrade Avenue.

Notice was sent to municipal departments and public utilities. The Building and Licensing Division advises that should the lands be closed and purchased, the abutting owners would be required to make application to the Committee of Adjustment for a minor variance to acknowledge the new lot areas and widths. As well, Horizon Utilities advises that there is an aerial service wire crossing the subject area. Should the service wire require relocation, it would be at the expense of the applicants.

**A Portion of Public Unassumed Alley Abutting 291 Park Row South, Hamilton - Ward 4**

The applicant is requesting the closure and sale in order to reconstruct an existing garage which has been determined to encroach on the alley.

Notice was sent to a 400’ radius of the neighbourhood (71 property owners) and the results are as follows:

In Favour: 2  
Opposed: 0  
No Comment: 69

Notice was sent to municipal departments and public utilities and no negative comments were received.

**A Portion of Unopened Road Allowance Abutting 1 Oak Knoll Drive, Hamilton - Ward 1**

The applicants are requesting to close and purchase the road allowance as part of the existing driveway at 1 Oak Knoll Drive is situated within the subject portion of road allowance.

Notice of the proposal was sent to a 400’ radius of the neighbourhood (26 property owners) and the results are as follows:

In Favour: 15  
Opposed: 0  
No Comment: 11

Notice was circulated to municipal departments and public utilities and the Development and Real Estate Division advises that the closure was recommended in the Transportation Master Plan for Ainslie Wood/Westdale. However, due to the larger lot size and configuration in this area, a new infill dwelling would not be compatible with the surrounding residential land uses and would not be permitted.
Cultural Heritage Planning staff recommend that as the subject property has been determined to be of high archaeological importance, a Stage 1 and 2 archaeological assessment be undertaken prior to any soil disturbance.

**A Portion of the Public Unassumed Alley at the Rear of 825 and 831 Beach Boulevard, Hamilton - Ward 5**

The Real Estate Division has requested that a portion of the unassumed alley at the rear of 825 and 831 Beach Boulevard be permanently closed and offered for sale to the abutting owners. Should the abutting owners decline to purchase the closed portion of alley, the alley will be offered for sale to the public along with an abutting vacant City lot.

Notice was circulated to a 400’ radius of the neighbourhood (44 property owners) and no negative comments were received. No negative comments were received from any municipal departments or public utilities.

In Favour: 1  
Opposed: 0  
No Comment: 43

**A Portion of Road Allowance Abutting 87 Rockcliffe Road, Flamborough - Ward 15**

The owners of 87 Rockcliffe Road in Carlisle have applied to purchase a 218.38 square metre portion of road allowance abutting their property. The area has been fenced and used by the owners since the late 1950’s and they are requesting to purchase the lands to regularize title.

Notice was sent to a 400’ radius of the neighbourhood (19 property owners) and the results are as follows:

In Favour: 2  
Opposed: 1  
No Comment: 16

One neighbour is opposed to the closure unless the lands are offered to the highest bidder. As well, that neighbour has requested the right to make an offer to purchase the lands. However, the area in question has been fenced in excess of 40 years and the lands would be of little use to anyone other than the abutting owners.

No negative comments were received from any municipal departments or public utilities.

**A Portion of Unopened Public Walkway between 939 and 949 Stonechurch Road East and 34 Ridley Drive, Hamilton – Ward 6**

An application has been submitted by 133664 Ontario Inc. to permanently close and purchase a portion of unopened public walkway between 939 and 949 Stonechurch Road East and 34 Ridley Drive. The lands are required in conjunction with a new housing development on Stonechurch and all abutting owners will be offered their half of the closed walkway. The proposal is to construct 5 single family dwellings at the site.

Notice was circulated to a 400’ radius of the neighbourhood (80 property owners) and the results are as follows:

In Favour: 2  
Opposed: 0  
No Comment: 78

No objections from any municipal departments or public utilities have been received.
As minimal objections to the above noted requests have been received, this Department supports the applications.

**ANALYSIS/RATIONALE:**

Each closure request was circulated to a 400' radius of the neighbourhood and to municipal departments and public utilities.

**ALTERNATIVES FOR CONSIDERATION:**

The lands could remain open, however the City would lose the revenue from the sales and any associated increases to the tax base.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

The public unassumed alleys and walkway abutting residential properties will be transferred for one dollar as per Council approved policy. The road allowances will be transferred at fair market value as determined by the Development and Real Estate Division.

**POLICIES AFFECTING PROPOSAL:**

The lands must be permanently closed by By-law as required under the Municipal Act. None of the subject lands require an environmental assessment before being closed and sold.

**RELEVANT CONSULTATION:**

All affected municipal departments and public utilities were circulated for comment. The Ward Councillors have been notified of the requests.

**CITY STRATEGIC COMMITMENT:**

By evaluating the “Triple Bottom Line”, (community, environment, and 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

The funds from the sale of the lands will be used for future City land purchases.

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:
ALLEYWAY BETWEEN 96 AND 98 CHESTNUT AVENUE

CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT

LEGEND

SUBJECT LAND

SCALE NOT TO SCALE

DATE 2007-01-30

REFERENCE FILE NO. PW07016
PROPOSED CLOSURE:
ALLEYWAY BEHIND
291 PARK ROW SOUTH
CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT

LEGEND
SUBJECT LAND

SCALE NOT TO SCALE DATE 2007-01-30

REFERENCE FILE NO: PW07016
PROPOSED CLOSURE:
PORTION OF ROAD ALLOWANCE
BEHIND 1- OAK KNOLL DR.
IN WESTDALE

CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT

LEGEND

SUBJECT LAND

NOT TO SCALE

SCALE

DATE

REFERENCE FILE NO: PW07016
PROPOSED WALKWAY CLOSURE BETWEEN 939 AND 949 STONE CHURCH RD E AND 34 RIDLEY DR
CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT

SCALE NOT TO SCALE

REFERENCE FILE NO: PW07016
PROPOSED CLOSURE:
PORTION OF UNASSUMED ALLEYWAY EAST OF
831 BEACH BLVD
AT FIFTH AVENUE
CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT

LEGEND

SUBJECT LAND

SCALE                   DATE
NOT TO SCALE             2007-01-30
REFERENCE FILE NO:  PW07016
LOCATION PLAN

PROPOSED ROAD ALLOWANCE CLOSURE:
A PORTION OF ROCKCLIFFE ROAD
CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT

LEGEND

- SUBJECT LAND

SCALE                      DATE
                          2007-01-31
NOT TO SCALE

REFERENCE FILE NO: PW07016