SUBJECT: Permanent Closure and Sale of a Portion of Public Unassumed Alley Abutting 127 and 129 Simcoe Street East and 400 and 402 Mary Street, Hamilton (PW06072a) - (Ward 2)

RECOMMENDATION:

(a) That the public unassumed alley running between 127 and 129 Simcoe Street East and 400 and 402 Mary Street, Hamilton, be permanently closed and one half of the alley be sold to each abutting property owner, 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 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.

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

**EXECUTIVE SUMMARY:**

At the June 5, 2006, Public Works, Infrastructure and Environment Committee, a report was approved to permanently close a portion of public unassumed alley between 127 and 129 Simcoe Street East and 404-414 Mary Street. However, the report did not close the section of alley at the rear of 400 and 402 Mary Street. Those owners have now requested to purchase their portion of alley. As well, the owner of 127 Simcoe Street who had previously declined the right to purchase half of the abutting alley has now decided to purchase it. As each abutting owner will purchase their piece of alley with no remaining parcels, this Department supports the request.

**BACKGROUND:**

The information/recommendations contained within this report primarily affects Ward 2.

A request to close the public unassumed alley between 127 and 129 Simcoe Street East and at the rear of 404-414 Mary was approved at the Public Works, Infrastructure and Environment Committee on June 5, 2006 and subsequently at Council of June 14, 2006. That report did not address selling to the properties at 400 and 402 Mary Street at the time as they were opposed to the closure. As well, the owner of 127 Simcoe Street was not interested in purchasing their abutting portion at the time.

As Council did approve the request for closure and sale, a registered letter was sent to each abutting owner with the offer to purchase their portion. All abutting owners responded that they would accept the opportunity to purchase. As distributing the alley this way will resolve the issue of remnant parcels, this Department supports the request.

**ANALYSIS/RATIONALE:**

As all parties abutting the alley have agreed to purchase their half with no remnant parcels, this Department supports the closure and sale.
SUBJECT: Permanent Closure and Sale of a Portion of Public Unassumed Alley Abutting 127 and 129 Simcoe Street East and 400 and 402 Mary Street, Hamilton (PW06072a) - (Ward 2) - Page 3 of 4

**ALTERNATIVES FOR CONSIDERATION:**

The alley could remain open.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

The appropriate user fee was paid at the time of application. The lands will be transferred for one dollar, as per City policy. There may be an increase to the tax base when the lot sizes are increased.

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 applicants pursuant to an agreement of purchase and sale or Offer to Purchase as negotiated by the Real Estate Section.

**POLICIES AFFECTING PROPOSAL:**

The alley must be permanently closed according to by-law under the Municipal Act. The closure of this unmaintained dirt alley and transfer to private ownership will contribute to a cleaner, greener environment in adherence with the Public Works Strategic Plan.

**RELEVANT CONSULTATION:**

Notices were circulated to:

- 400' radius of the neighbourhood.
- Public utilities: Horizon Utilities, Union Gas, Bell Canada and Hydro One
- Municipal departments: Planning & Economic Development, Public Works
- Office of the Mayor

Ward 2 Councillor Bob Bratina supports the closure and sale to all abutting properties.

**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
  
  The purchasers will enjoy a larger outdoor area on each property.

- **Environmental Well-Being is enhanced.** ☐ Yes ☑ No

- **Economic Well-Being is enhanced.** ☑ Yes ☐ No
  
  There will be an increase to the tax base from the development of larger lots.

- **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
SUBJECT: Permanent Closure and Sale of a Portion of Public Unassumed Alley Abutting 127 and 129 Simcoe Street East and 400 and 402 Mary Street, Hamilton (PW06072a) - (Ward 2) - Page 4 of 4

LOCATION PLAN

PROPOSED CLOSURE:
ALLEWAY BETWEEN 127 & 129 SIMCOE STREET EAST
CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT

KEY MAP

ALLEWAY LOCATION

LEGEND

SUBJECT LAND
SCALE
NOT TO SCALE
DATE
2008-05-

REFERENCE FILE NO: PW06072a