SUBJECT: Proposed Permanent Closure and Sale of a Portion of Public Assumed Alley Abutting 19 John Street South, Hamilton (PW08052) - (Ward 2)

RECOMMENDATION:

That the application of the owner of 19 John Street South, Hamilton, to permanently close and purchase a portion of the public assumed alley abutting 19 John Street South, be approved, subject to the following conditions:

(a) That the City Solicitor be authorized and directed to prepare a by-law to permanently close the highway;

(b) That the appropriate by-law be introduced and enacted by Council;

(c) That the Real Estate Section, Planning and Economic Development Department, be authorized to sell the closed highway to the applicant at fair market value and in accordance with the Procedural By-law for the Sale of Land, By-law No. 04-299;

(d) 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;

(e) 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;

(f) 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:

The owner of 19 John Street South has made application to close and purchase the portion of public assumed alley abutting the property. The subject section of alley is a remnant piece of an alley which was approved for closure in 2006 as part of the redevelopment of the site of the former Royal Connaught Hotel. As the applicant is one of two owners of property abutting the remnant portion of alley, is the only abutting property owner interested in closing and purchasing the alley, and there are no substantive negative consequences to affected adjacent properties in terms of rear access to their properties created by the alley closure, this Department supports the application.

BACKGROUND:

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

An application has been submitted by the owner of 19 John Street South to permanently close and purchase a portion of public assumed alley abutting the property. The two properties abutting the subject portion of alley are 82-114 King Street East and 19 John Street South.

Council approval to close the alley, minus this particular section, was granted in 2006 to the owners of 82-114 King Street East (former Royal Connaught Hotel site). At the time, the owner of 19 John Street South had no interest in closing the remnant portion of the alley. The current owner of 19 John Street South has now decided it would be prudent to do so as he has indicated that the alley has become an area for illegal activity. As well, a portion of the applicant’s building overhangs the alley and the purchase would resolve the issue of encroachment. The other abutting property owner has expressed no interest in the closure and purchase of the alley.

Rear building access to affected properties located at 19, 27 and 31 John Street is currently obtained either through the John Street alley or alternatively from Main Street. In either case, all three property owners rely on a strip of private property directly behind their properties to gain rear access.

Closure of the alley would reduce the number of access entrance points to the properties from two (John Street or Main Street) to one (Main Street). The closure will have no effect on the continued reliance on the rear strip of private property required by the three property owners to gain rear access.

NOTICES:

Notice was circulated to public utilities and no negative comments were received.

Notice was circulated to municipal departments and the results are as follows. The Planning and Economic Development Department advises that the Downtown Secondary Plan encourages the retention of public alleys to reinforce the existing grid pattern of downtown. This Department also advises that the alley gives rear building access to the properties at 19, 27 and 31 John so the closure could have negative consequences to the adjacent businesses. However, alternate access is available from Main Street.
Notice was sent to a 400' radius of the neighbourhood and the results are as follows:

Number Circulated: 49
In Favour: 0  Opposed: 1  No Comment: 49

The one person opposed did not state a reason and their property does not abut the alley.

**ANALYSIS/RATIONALE:**
As the applicant is one of two owners of property abutting the remnant portion of alley, is the only abutting property owner interested in closing and purchasing the alley, and there are no substantive negative consequences to affected adjacent properties in terms of rear access to their properties created by the alley closure, this Department supports the application.

**ALTERNATIVES FOR CONSIDERATION:**
The alley could remain open.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**
The applicant has paid the appropriate user fee. The lands will be transferred at fair market value as determined by the Real Estate Section of the Planning and Economic Development Department.

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 permanent alley closure must be confirmed through a by-law under the Municipal Act. The closure of the alley and probable reduction of illegal activity will serve to support the Public Works Strategic Plan vision of creating a cleaner and more walkable City.

**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.
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

The proceeds from the sale of the alley at fair market value will be deposited into the Real Estate account for future 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
LOCATION PLAN

PROPOSED CLOSURE OF PORTION OF ASSUMED ALLEY
19 JOHN STREET SOUTH
CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT

LEGEND

SUBJECT LAND

SCALE
NOT TO SCALE
DATE
2008-04-29

REFERENCE FILE NO: PW08052