**CITY OF HAMILTON**

**PUBLIC WORKS DEPARTMENT**  
*Operations and Waste Management Division*

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<th>TO: Chair and Members Public Works Committee</th>
<th>WARD(S) AFFECTED: WARD 2</th>
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<td>COMMITTEE DATE: April 2, 2012</td>
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<td>SUBJECT/REPORT NO:</td>
<td>PREPARED BY:</td>
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| Proposed Permanent Closure and Sale of a Portion of Public Unassumed Alley Abutting 20 - 22 George Street, Hamilton (PW12023) - (Ward 2) | Angela Doyle  
(905) 546-2424, Extension 1332 |

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

**SIGNATURE:**

**RECOMMENDATION:**

(a) That the public unassumed alley abutting 20 - 22 George Street be permanently closed and transferred to the owners of 20 - 22 George Street, Hamilton, as shown on Appendix “B” attached to Report PW12023, 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 Manager, Surveys and Technical Services Section and that the applicant deposit a reproducible copy of said plan with the Manager, Surveys and Technical Services Section;

(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 of the Planning and Economic Development Department be authorized and directed to sell this closed highway for fair market value, 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**

The owner of 20 - 22 George Street has made an application to permanently close and purchase a public unassumed alley abutting the property.

There were 2 negative comments received from the notices sent to property owners within a 400’ (121.9 m) radius in the neighbourhood. The owner of 213 King Street West is opposed to the closure and has expressed interest in purchasing the portion of alley directly abutting his property.

The Development Planning Section has indicated that 20 - 22 George Street property is currently being developed. The proposed plan requires that the alleyways in question be closed and conveyed to the property owner of 20 - 22 George Street as a condition of development. Operations and Waste Management staff is not opposed to the closure of the alley.

**Alternatives for Consideration - See Page 4**

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS**

**Financial:** The owner of 20 - 22 George Street, Hamilton, who submitted the application, has paid an application fee of $3,282.05. The lands will be transferred to the abutting owner for fair market value, as determined by the Economic Development and Real Estate Division.

**Staffing:** Agreements 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 abutting owners, 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 owner of 20 - 22 George Street has applied to close and purchase the public unassumed alley abutting the property. The proposed alley closure relates directly to Formal Consultation (FC-10-122) sent January 5, 2011. The applicant proposes to build a 20-storey, 140 unit residential building with underground parking. The proposed development includes the alleys directly abutting 20 - 22 George Street and approval is conditional on the closure of the alleyway. Conveyance of the alleys to the 20 - 22 George Street will allow the proposed development to proceed.

The abutting owner at 213 King Street West is opposed to the closure and has expressed interest in purchasing the portion of alley directly abutting his property. Conveyance of a portion of the alley abutting 213 King Street West may impede development of 20 - 22 George Street and would create a non-linear property line for 20 - 22 George Street.

Therefore, Operations and Waste Management staff does not oppose the closure and sale of the alleys to the owner of 20 - 22 George Street.

### POLICY IMPLICATIONS

A by-law must be passed to permanently close the lands in accordance with the Municipal Act.

The closure and sale of the lands will fulfil the priorities established in the Public Works Business Plan within “Communities” as it reflects our desire to “establish mutually beneficial charters with external customers”.

### RELEVANT CONSULTATION

Notice was circulated to property owners within a 400' (121.9m) radius of the subject property as shown on Appendix “A” attached to Report PW12023. Of the 33 notices sent, 2 respondents were opposed.

The following City staff were consulted on this application and conveyed no negative comments on the proposed alley closure:

- Planning and Economic Development Department: Building Services, Development Engineering, Economic Development and Real Estate and Planning Divisions
- Public Works Department: Environment and Sustainable Infrastructure, Transportation, Energy and Facilities Divisions
The Environment & Sustainable Infrastructure Division indicated that the alley may act as a drainage path for storm water. Any changes to drainage patterns must be considered during the development phase and any storm water that would currently drain via the alley must be properly rerouted.

The Planning Division indicated that 20 - 22 George Street property is adjacent to 10 George Street, which is included in the City’s Inventory of Buildings of Architectural and/or Historical Interest. Re-development of 20 - 22 George Street will require the completion of a Cultural Heritage Impact Assessment. The Planning Division has also indicated that the proposed alley closure relates directly to development plans currently underway; conveyance of the alleys is required to allow proposed development to proceed.

Bell Canada has indicated that there are two posts located at the rear of 193 and 213 King Street West which will require an easement.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

Operations & Waste Management staff does not oppose the proposed alley closures as both alleys directly abut 20 - 22 George Street. The conveyance of the entire portion of the alleys abutting 20 - 22 George Street will create a continuous linear / uninterrupted property line for 20 - 22 George Street and will facilitate the proposed development.

**ALTERNATIVES FOR CONSIDERATION:**

The Operations & Waste Management Division considers all comments received related to alley closure applications. According to the Municipal Act, the City of Hamilton is not obligated to offer portions of land to abutting property owners. The policy provides for the opportunity for abutting property owners to purchase the portion of alleyway directly abutting their property unless there are legitimate reasons that the property should be conveyed in another manner.

Two alternatives exist for consideration. The first alternative is that the entire alley be transferred to the owner of 20 - 22 George Street. The Development Planning Section of the Planning & Economic Development Department indicated that conveyance of the entire alley would be required to facilitate development plan (FC-10-122). If the entire portion of alley is not conveyed to the owner of 20 - 22 George Street, the development plan will require re-evaluation as the documented property line included the entire proposed alley closure.

The second alternative is that the portion of alley abutting 213 King Street West be split in half with the property owner of 20 - 22 George Street. In this circumstance, the
remaining portion of alley would be transferred to the property owner of 20 - 22 George Street. In considering alley closures attempts are made to maintaining continuous linear / uninterrupted property lines. If the proposed alley is split between the owner of 20 - 22 George Street and 213 King Street West, the result would be a jog in the property line for 20 - 22 George Street interfering with the proposed development. If this alternative is chosen, the portion of alley directly abutting 213 King Street West would be sold at fair market value to that property owner as it is a commercial business. Although this alternative would appease the property owner of 213 King Street West, it would not facilitate the proposed development of 20 - 22 George Street (FC-10-122) and would result in the property line of 20 - 22 George Street being non-linear.

Staff is of the opinion that the conveyance of the entire alleyway to the owners of 20 - 22 George Street is appropriate to maintain linear / uninterrupted property lines and to facilitate the development of the property.

CORPORATE STRATEGIC PLAN


Healthy Community

• Plan and manage the built environment

APPENDICES / SCHEDULES

Appendix “A” - Location Plan
Appendix “B” - Proposed Alley Division
LOCATION PLAN

PROPOSED CLOSURE OF UNASSUMED ALLEY AT

20-22 George Street

LEGEND

SUBJECT LANDS

DATE: July 22, 2011

REFERENCE FILE NO: Not to Scale