



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	June 18, 2018
SUBJECT/REPORT NO:	Proposed Permanent Closure and Sale of a Portion of Public Unassumed Alley Abutting 102 Francis Street, Hamilton (PW18049) (Ward 3)
WARD(S) AFFECTED:	Ward 3
PREPARED BY:	Gary Kirchknopf Corridor Management (905) 546-2424, Extension 7217 Cetina Farruggia Corridor Management (905) 546-2424, Extension 5803
SUBMITTED BY:	Gord McGuire Geomatics & Corridor Management Public Works
SIGNATURE:	

RECOMMENDATION

That the application of the owner of 102 Francis Street, Hamilton, to permanently close and purchase a portion of the unassumed alleyway abutting the West side of 102 Francis Street, Hamilton, ("Subject Lands"), as shown on Appendix "A", attached to Report PW18049, be approved, subject to the following conditions:

- (a) That the applicant makes an application to the Ontario Superior Court of Justice, under Section 88 of the Registry Act, for an order to permanently close the Subject Lands, if required by the City, subject to:
 - (i) The General Manager of Public Works, or designate, signing the appropriate documentation to obtain any required court order; and
 - (ii) The documentation regarding any required application to the Ontario Superior Court of Justice being prepared by the applicant, to the satisfaction of the City Solicitor;
- (b) That the applicant be fully responsible for the deposit of a reference plan in the proper land registry office, and that said plan be prepared by an Ontario Land Surveyor, to the satisfaction of the Manager, Geomatics and Corridor Management Section, and that the applicant also deposit a reproducible copy of said plan with the Manager, Geomatics and Corridor Management Section;

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OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

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- (c) That, subject to any required application to the Ontario Superior Court of Justice to permanently close the Subject Lands being approved:
 - (i) The City Solicitor be authorized and directed to prepare all necessary by-laws to permanently close and sell the alleyway, for enactment by Council;
 - (ii) The Real Estate Section of the Planning and Economic Development Department be authorized and directed to sell the closed alleyway to the owners of 102 Francis Street, Hamilton, as described in Report PW18049, in accordance with the City of Hamilton Sale of Land Policy By-law 14-204;
 - (iii) The City Solicitor be authorized to complete the transfer of the Subject Lands to the owners of 102 Francis Street, Hamilton pursuant to an Agreement of Purchase and Sale or Offer to Purchase as negotiated by the Real Estate Section of the Planning and Economic Development Department;
 - (iv) The City Solicitor be authorized and directed to register a certified copy of the by-laws permanently closing and selling the alleyway in the proper land registry office;
 - (v) The Public Works Department provide any required notice of the City's intention to pass the by-laws and/or permanently sell the closed alleyway pursuant to City of Hamilton Sale of Land Policy By-law 14-204;
- (d) That the applicant enters into agreements with any Public Utility requiring easement protection.

EXECUTIVE SUMMARY

The owner of 102 Francis Street, Hamilton, has applied to permanently close and purchase a portion of the public unassumed alleyway running North/South at the side of 102 Francis Street, Hamilton. The Applicant expressed concerns around the lack of maintenance in the alleyway creating access difficulties to the rear of the property, as well as limited on street parking concerns. There were no objections for any City Departments, Divisions, or Public Utilities. One objection was received from an abutting land owner with concerns related to access of rear parking. Staff have reviewed this and there is still access through the North/South leg of the alley off of Keith Street.

Alternatives for Consideration – See Page 4

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The applicant has paid the Council approved user fee of \$4,454.00. The Subject Lands will be sold to the owners of 102 Francis Street, Hamilton, in accordance with the City of Hamilton Sale of Land Policy By-law 14-204.

Staffing: An agreement to purchase the Subject Lands will be negotiated by the Real Estate Section of the Planning and Economic Development Department.

Legal: Subject to any required application to the Ontario Superior Court of Justice to permanently close the Subject Lands being approved, the City Solicitor will prepare all necessary by-laws to permanently close and sell the Subject Lands and will register such by-laws in the Land Registry Office once Council has approved the by-law. The by-law does not take effect until the certified copy of the by-law is registered in the proper land registry office. The City Solicitor will complete the transfer of the Subject Lands to the owners of 102 Francis Street, Hamilton, pursuant to an agreement negotiated by the Real Estate Section of the Planning and Economic Development Department.

HISTORICAL BACKGROUND

The alleyway was created by Registered Plan 209 and has both a North/South leg running from Francis Street to Keith Street and an East/West leg running from the North/South leg to Cheever Street. Being an unassumed alleyway, the Subject Lands are not maintained by the City. On July 10th, 2017 the original owners of 102 Francis Street, Hamilton made application to close and purchase the Subject Lands in order to take ownership and complete maintenance. Prior to Public Works being able to bring that application forward to Public Works Committee, the original owners had sold the property and retracted their application. On April 20, 2018 an application to close and purchase the Subject Lands was received from the new owner of 102 Francis Street, Hamilton for the purpose of maintaining the parcel, providing access to the rear garage, and for additional parking.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The closure of the Subject Lands will be subject to any application required by the City. In addition, a by-law must be passed to permanently close the Subject Lands in accordance with the *Municipal Act, 2001*.

RELEVANT CONSULTATION

The following public utilities, City departments and divisions were provided with a copy of the application and were invited to provide comments:

- Planning and Economic Development Department: Development Engineering, Building, Economic Development, Real Estate, and Planning
- Public Works Department: Engineering Services, Hamilton Water, Operations, Environmental Services, and Transportation
- Hamilton Emergency Services
- Corporate Services Department: Budgets and Finance
- Mayor and Ward Councillor
- Bell, Horizon Utilities/Alectra Utilities, Hydro One, and Union Gas

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There were no objections received from any public utilities, City departments and divisions.

Bell has advised that they will require easement protection.

Notice of the proposal was sent to all abutting property owners of the Subject Lands, as shown on Appendix “B”, for comment. In this instance, there were 7 notices mailed, and the results are as follows:

In favour: 0

Opposed: 1

No comment: 0

The opposed owner expressed concerns with regards to accessing their rear parking. Staff have reviewed the location and there is sufficient access from the residual North/South leg from Keith Street.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As there were no objections received from any City Departments, Divisions, or Public Utilities, and only one objection received from an abutting owner, staff support the permanent closure and sale of the Subject Lands to the owner of 102 Francis Street, Hamilton.

ALTERNATIVES FOR CONSIDERATION

The City could deny the application and the alleyway would remain public unassumed.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Built Environment and Infrastructure

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APPENDICES AND SCHEDULES ATTACHED

Appendix A: Aerial Drawing

Appendix B: Location Plan