




CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Engineering Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	September 21, 2020
SUBJECT/REPORT NO:	Proposed Permanent Closure and Sale of a Portion of Public Unassumed Alley Abutting 75 Catherine Street South, Hamilton (PW20059) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Gary Kirchknopf (905) 546-2424 Ext. 7217 Cetina Farruggia (905) 546-2424 Ext. 5803
SUBMITTED BY:	Gord McGuire Director, Engineering Services Public Works
SIGNATURE:	

RECOMMENDATION(S)

That the application of the owner of 75 Catherine Street South, Hamilton, to permanently close and purchase a portion of the unassumed alleyway abutting the North side of 75 Catherine Street South, Hamilton, ("Subject Lands"), as shown on Appendix "A", attached to Report PW20059, 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

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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;

- (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) That the City Solicitor be authorized to amend and waive such terms as she considers reasonable to give effect to this authorization and direction;
 - (iii) The Real Estate Section of the Planning and Economic Development Department be authorized and directed to enter into any requisite easement agreements, right of way agreements, and/or other agreements deemed necessary to affect the orderly disposition of the Subject Lands and to proceed to sell the Subject Lands to the owners of 75 Catherine Street South, Hamilton, as described in Report PW20059, in accordance with the City of Hamilton Sale of Land Policy By-law 14-204;
 - (iv) The City Solicitor be authorized to complete the transfer of the Subject Lands to the owners of 75 Catherine Street South, 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;
 - (v) 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;
 - (vi) The Public Works Department publish 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 be responsible for all legal costs associated with the registration of required right of way agreements on title with the abutting land owners who require access as indicated within Report PW20059.

EXECUTIVE SUMMARY

The owner of 75 Catherine Street South, Hamilton, has applied to permanently close and purchase a portion of the public unassumed alleyway running east/west at the north side of their property to support land consolidation needed for future development

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associated with FC-19-085. There were no objections received from any department, division, or public utilities. There were 7 opposed responses received by abutting land owners with concerns related to property access. As such, the applicant will be required to enter into private right of way agreements with all abutting land owners that currently have access off this laneway. As these concerns have been addressed through the recommendations within Report PW20059, staff are supportive of the closure and sale of the Subject Lands to the owners of 75 Catherine Street South, Hamilton.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The applicant has paid the Council approved user fee of \$4,634.00. The Subject Lands will be sold to the owners of 75 Catherine Street South, Hamilton, as determined by the Real Estate Section of the Planning and Economic Development Department, 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 75 Catherine Street South, Hamilton, pursuant to an agreement negotiated by the Real Estate Section of the Planning and Economic Development Department.

HISTORICAL BACKGROUND

The Subject Lands were created by Registered Plan 1431 in 1858 and also shown on Registered Plan 0048 in 1860. On May 28, 2019, staff received an application from Catherine Street Holdings Inc., the owners of 75 Catherine Street South, Hamilton, to apply to close and purchase the Subject Lands in order to facilitate land assembly needed for future development associated with FC-19-085. There were no objections received from any City department, division, or public utilities. There were 7 objections received from abutting land owners who expressed concerns related to rear access. Staff considered these concerns and advised the applicant that they will be required to enter into private right of way agreements with all abutting land owners who indicated

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their need for access through our circulation process. As these private right of way agreements maintain access for residents, and there were no other concerns brought forward, staff are supportive of the closure and sale of the Subject Lands to the owners of 75 Catherine Street South, Hamilton.

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*.

Alleyway Management Strategy - Classification System (Report PW17008(a)):

The Subject Lands are classified as Hierarchy Class "D": Alleyway is unassumed and could be used for any of the following:

- commercial parking;
- public/private waste collection;
- special consideration; and
- access to rear yards or overland flow routes

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

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

Bell 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", attached to Report PW20059 for comment. In this instance, there were 39 notices mailed, and the results are as follows:

In favour: 0

Opposed: 7

No comment: 0

Those opposed expressed concerns related to existing property access. As per the recommendations within Report PW20059, private right of way agreements will be required for abutting properties who expressed the need to maintain property access off the laneway as follows:

111 Hunter Street East
113 Hunter Street East
117 Hunter Street East
134 Jackson Street East
74 Walnut Street South

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

As there were no objections from any City Department, Division, or Public Utilities, and the concerns raised from abutting land owners have been remedied through the recommendations within Report PW20059, staff are supportive of the closure and sale of the Subject Lands to the owners of 75 Catherine Street South, Hamilton.

ALTERNATIVES FOR CONSIDERATION

The City could deny this application and the lands would remain Public Highway.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Built Environment and Infrastructure

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PW20059 - Aerial Drawing
Appendix “B” to Report PW20059 - Location Plan