



**City of Kingston  
Report to Council  
Report Number 18-197**

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**To:** Mayor and Members of Council  
**From:** Lanie Hurdle, Commissioner, Community Services  
**Resource Staff:** Peter Huigenbos, Director, Real Estate & Environmental Initiatives  
**Date of Meeting:** July 10, 2018  
**Subject:** Close and Declare Surplus – Unopened Portion of Marker Crescent

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**Executive Summary:**

Conacher Kingston Holdings Inc. (“Conacher Kingston”) has requested that the City transfer the last segment of the former Marker Crescent created by Plan 1578 to its ownership for use as a private condominium road entrance. The transfer of the road allowance was included as a condition of draft plan approval for the development of a subdivision consisting of townhomes accessed by private condominium roads at 311 Conacher Drive.

In 2012 the City approved the transfer of the larger portion of the former Marker Crescent, closed by by-law in 1997, to Conacher Kingston at no cost. The purpose for the transfer was to enable the redefinition of the property for a townhouse development with an internal private road system as opposed to the single family subdivision that was first considered in 1971 by Registered Plan 1578. The final segment of Marker Crescent contains significant City servicing infrastructure and therefore the City decided in 2012 to retain ownership until the final development plan was known and supported through the planning process.

Staff recommend transferring the final segment of Marker Crescent to Conacher Kingston at no cost to align with the previous decisions in 1997 and 2012, and because it will enable the development of privately owned condominium roads at no cost to the City. Conacher Kingston will be responsible to pay the City all applicable fees and disbursements. It is recommended that the by-law be given all three readings at the July 10, 2018 meeting of Council to accommodate the limited summer calendar of Council meetings and to satisfy the condition of draft plan approval without delay.

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**Recommendation:**

**That** a by-law be presented to Council to permanently close a portion of Marker Crescent, Plan 1578, designated as Part 1 on Reference Plan 13R-13872, City of Kingston; and

**That** Council declare surplus to municipal need and dispose of a portion of Marker Crescent, Plan 1578, designated as Part 1 on Reference Plan 13R-13872, City of Kingston; and

**That** Council authorize the Mayor and Clerk to execute all necessary agreements as may be required to sell the portion of Marker Crescent, Plan 1578, designated as Part 1 on Reference Plan 13R-13872, City of Kingston, to Conacher Kingston Holdings Inc. for \$1.00 plus fees and disbursements to the satisfaction of the Director of Legal Services; and

**That** the draft by-law, 'A By-Law to Permanently Close a Portion of the Highway Described as Part of Marker Crescent, Plan 1578, designated as Part 1 on Reference Plan 13R-13872, City of Kingston', attached as Exhibit B to Report Number 18-197 be given all three readings.

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**Authorizing Signatures:**

ORIGINAL SIGNED BY COMMISSIONER

**Lanie Hurdle, Commissioner, Community Services**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

**Gerard Hunt, Chief Administrative Officer**

**Consultation with the following Members of the Corporate Management Team:**

Jim Keech, President & CEO, Utilities Kingston	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required
Denis Leger, Commissioner, Corporate & Emergency Services	√

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**Options/Discussion:**

In 1971, Plan 1578 was registered on the property known municipally as 311 Conacher Drive by Dacon for a development of single family homes. Marker Crescent was a proposed road allowance needed for that development proposal and was transferred to the City by way of the registration of Plan 1578. This is a typical process for residential subdivision development. It became a public road allowance with the intention to be opened and maintained by the City at a future date. An alternative reconfiguration for development was submitted in 1997 by Dacon. The City was asked to re-convey Marker Crescent back to Dacon so that a different internal road system could be designed with a subsequent plan of subdivision. In 1997, Council passed By-Law Number 97-163 to close Marker Crescent and transfer it to Dacon, save and except a small portion fronting onto Conacher Drive that contained city servicing infrastructure. Approval of the transfer was deferred until a new plan was submitted.

The property was not redeveloped in 1997 and the transfer of Marker Crescent to Dacon did not occur. Instead, in 2012, the City agreed to transfer the closed portion of Marker Crescent to the new owner, Conacher Kingston, who planned to apply for a zoning amendment, draft Plan of Subdivision and draft Plan of Condominium to construct freehold townhomes to be accessed by private condominium roads. The transfer of that large portion of Marker Crescent to Conacher Kingston was not completed until January 2017 when the new plans were sufficiently advanced in the Planning approvals process. In May 2017, a new draft plan of subdivision and draft condominium plan was approved. A condition of the draft Plan of Subdivision approval requires Conacher Kingston to acquire the last remaining segment of Marker Crescent, now described as Part 1 of 13R-13872, as it is part of the private road network in the approved Draft Plan of Subdivision design.

In accordance with the Official Plan and the Provincial Policy Statement, the City recognizes its road allowances as an important public resource and seeks to protect them as such by retaining ownership. Requests for the closure and sale of road allowances may be considered if there are circumstances that suggest it is in the best interest of the City to dispose of the property. In this case, it is in the best interest of the City to approve the closure and transfer the lands to the developer for use as part of a private internal road system, as supported and approved through the public planning process. The City will not be responsible for maintaining or repairing the roads in the development. The City will retain a municipal easement on the southern portion abutting Conacher Drive which contains existing public water, sanitary sewer and storm sewer infrastructure.

**Existing Policy/By-Law:**

The City's Disposition of Real Property Policy requires that road allowances, once closed, be declared surplus and sold at fair market value. In this situation, the City acquired the lands at no cost as part of the original draft Plan of Subdivision. As with the previous section of Marker Crescent the City re-conveyed, it is recommended that Part 1 on Reference Plan 13R-13872 be transferred to Conacher Kingston for \$1.00 plus all applicable fees and disbursements.

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**Notice Provisions:**

The City's Public Notice Policy requires that notice be published two weeks in advance of the proposed meeting date in which Council considers the closure of a road allowance and the declaration of said property as surplus to municipal need. The advertisement for closing the road and declaring surplus was published on June 26, 2018 on the City's public notice webpage.

**Accessibility Considerations:**

Not applicable

**Financial Considerations:**

There is no cost to the City to re-convey this unopened portion of Marker Crescent. The applicant will pay the City's costs of closing the road allowance, including the property request fee and legal fees incurred by the City at the time of closing. The developer will pay directly for the legal survey costs to describe the easements prior to closing.

**Contacts:**

Peter Huigenbos, Director, Real Estate & Environmental Initiatives 613-546-4291 extension 3148

**Other City of Kingston Staff Consulted:**

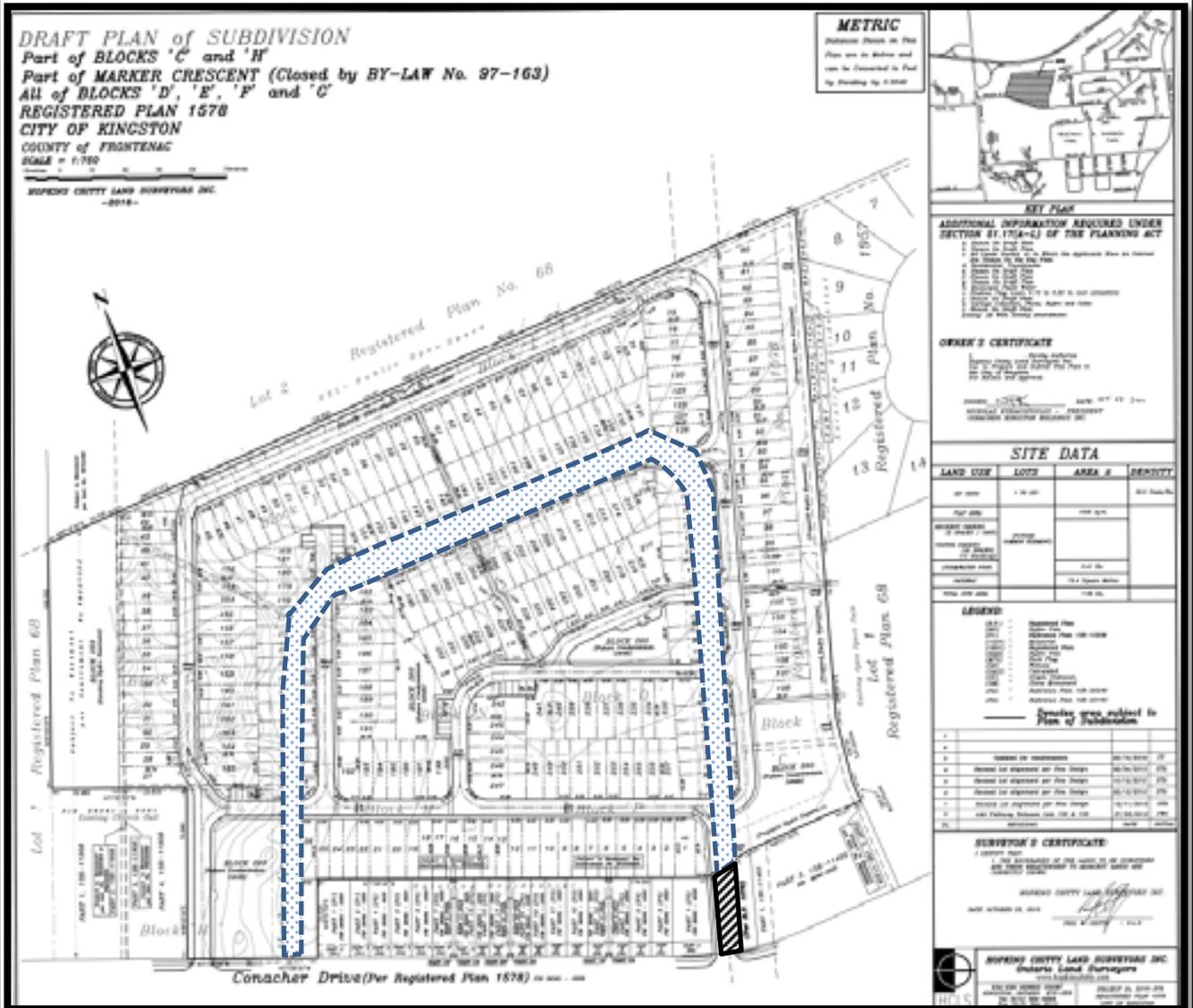
Amy Didrickson, Intermediate Planner, Planning Building & Licensing Services

Mary Rae, Senior Legal Counsel, Legal Services

**Exhibits Attached:**

Exhibit A Location Map

Exhibit B Draft By-Law to Permanently Close a Portion of the Highway Described as Marker Crescent, Plan 1578, designated as Part 1 on Reference Plan 13R-13872, City of Kingston



Marker Crescent. Closed by By-law 97-163

**Unopened Road Allowance to be Closed and Declared Surplus**

**LEGEND:**  
 Subject Property



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**By-Law Number 2018-XX****A By-Law to Permanently Close a Portion of the Highway Described  
as Part of Marker Crescent, Plan 1578, designated as Part 1 on  
Reference Plan 13R-13872, City of Kingston****Passed:** July 10, 2018

**Whereas** Section 9 and 11 of the *Municipal Act, 2001*, S.O. 2001, c.25, permit municipalities to pass by-laws in respect of highways when the highway is under the jurisdiction of the municipality;

**And whereas** the Council of the Corporation of the City of Kingston deems it necessary to pass a by-law to permanently close part of a highway;

**And whereas** public notice of Council's intention to permanently close a portion of the highway described as Part of Marker Crescent, Plan 1578, designated as Part 1 on Reference Plan 13R-13872, City of Kingston was published on June 26, 2018 on the City of Kingston's public notices webpage in accordance with the City of Kingston's "Public Notice Policy";

**Therefore be it resolved that** the Council of the Corporation of the City of Kingston hereby enacts as follows:

1. The portion of the highway described as Part of Marker Crescent, Plan 1578, designated as Part 1 on Reference Plan 13R-13872, City of Kingston, shall be permanently closed.
2. This By-Law shall come into force and take effect on the date of its passing.

Given All Three Readings and Passed July 10, 2018.

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**John Bolognone**  
**City Clerk**

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**Bryan Paterson**  
**Mayor**