



**City of Kingston  
Report to Council  
Report Number 19-215**

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<b>To:</b>	<b>Mayor and Members of Council</b>
<b>From:</b>	<b>Peter Huigenbos, Acting Commissioner, Community Services</b>
<b>Resource Staff:</b>	<b>Same</b>
<b>Date of Meeting:</b>	<b>August 13, 2019</b>
<b>Subject:</b>	<b>Permanently Close a Portion of York Street, formerly Old Road, at 183 Pine Street</b>

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**Executive Summary:**

The City has received a request from the owner of 183 Pine Street to permanently close a portion of York Street, formerly known as Old Road, that runs through part of the residential lot located at 183 Pine Street. Sometime after 1873, the subdivision was restructured, which included terminating York Street at Pine Street. There is no documentation indicating that the road allowance was formally closed or that the municipality relinquished its interest in the land. The closure of this road allowance will correct a title defect to the lands at 183 Pine Street.

**Recommendation:**

**That** the by-law attached as Exhibit B to Report Number 19-215 be presented to Council to permanently close a portion of the highway over Part of Abstract Block "PP" Farm Lot 24 Concession 1 also known as York Street further described as Part 3 on Reference Plan 13R-22061, City of Kingston; and

**That** Council declare surplus to municipal need and dispose of a portion of the highway over Part of Abstract Block "PP" Farm Lot 24 Concession 1, also known as York Street, further described as Part 3 on Reference Plan 13R-22061, City of Kingston; and

**That** the Mayor and Clerk be authorized to execute all necessary agreements and other documents as may be required to transfer the portion of the highway over Part of Abstract Block "PP" Farm Lot 24 Concession 1, also known as York Street, further described as Part 3 on Reference Plan 13R-22061, City of Kingston, to the owner of 183 Pine Street for \$1.00, in a form satisfactory to the Director of Legal Services.

August 13, 2019

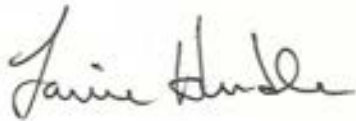
Page 2 of 4

**Authorizing Signatures:**



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**Peter Huigenbos, Acting  
Commissioner, Community  
Services**



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**Lanie Hurdle, Interim 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
Sheila Kidd, Commissioner, Transportation & Public Works	
Deanne Roberge, Acting Commissioner, Corporate Services	Not required

August 13, 2019

Page 3 of 4

**Options/Discussion:**

Since the implementation of the Land Titles Act in 1990 and the gradual elimination of the old land registry system, the City has received an increase in requests from property owners who have discovered the existence of old road allowances affecting the title to their properties. This is particularly prevalent in the historic core of the City where new lots were created to fit changing street patterns. Portions of lots on old registered plans were re-described using metes and bounds descriptions and these would often include parts of roads from the original plans that were no longer required. Under the old land registration system, this imperfect title was acceptable but is not under the new land titles system. In the absence of a by-law to close the roads or other actions such as a judge's order, the roads are still subject to the interest of the municipality. This defect in title prevents the land from being registered under the Land Titles Act, and as a result can impact a property owner's ability to sell the land, secure a mortgage or obtain title insurance. The only way for the property owner to obtain clear title is to make a request to the municipality to close the road and convey the interest to the owner. This report addresses the issue as it relates to 183 Pine Street.

In 1855, Plan A-13 established Old Road, now known as York Street, which originally crossed Pine Street and continued northeast rather than ending at Pine Street as it currently does today (Exhibit A). After 1873, new plans were deposited for the area which changed the street layout including the change to have York Street terminate at Pine Street. There is no evidence that the portion of York Street beyond Pine Street was formally closed through a by-law or any other method available at the time. In the absence of any such specific action, the portion of York Street north of Pine Street is still identified as a municipally owned road on a registered plan and remains subject to the interest of the municipality. The owner of 183 Pine Street has prepared a reference plan at his expense to facilitate the transfer.

Staff consulted with internal departments to verify that the road allowance is not required for municipal purposes. Staff recommends that the portion of road allowance identified as Part 3 on Reference Plan 13R-22061 be permanently closed by enacting the draft by-law (Exhibit B). In addition, staff recommends that Part 3 be declared surplus to municipal need and be conveyed to the owner of 183 Pine Street.

**Existing Policy/By-Law:**

The Official Plan, Section 4.6.17.2, provides a list of criteria to consider when determining whether a road allowance should be retained or not. In this situation, the roads on the original registered plans were reconfigured as were many of the plans in this area over 100 years ago. The abutting lots were re-described and conveyed using commonly accepted methods thereby providing marketable title to the lots for over 100 years. There is no further public benefit to retaining an interest.

Section 34 of the Municipal Act requires that roads can only be closed with the approval and registration of a by-law on title. In addition, the City's Disposition of Real Property policy requires that prior to selling land, including closed road allowances, Council must declare the property surplus to municipal need.

August 13, 2019

Page 4 of 4

**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 July 30, 2019 on the City's public notice webpage.

**Accessibility Considerations:**

Not applicable

**Financial Considerations:**

The owner of 183 Pine Street will reimburse the City for the legal and administrative fees involved in transferring the land. A legal survey has already been completed by the owner at their expense. Consistent with previous transfers for properties bearing this similar historic pattern of title defect, the sale price will be \$1.00.

**Contacts:**

Peter Huigenbos, Acting Commissioner, Community Services 613-546-4291 extension 3148

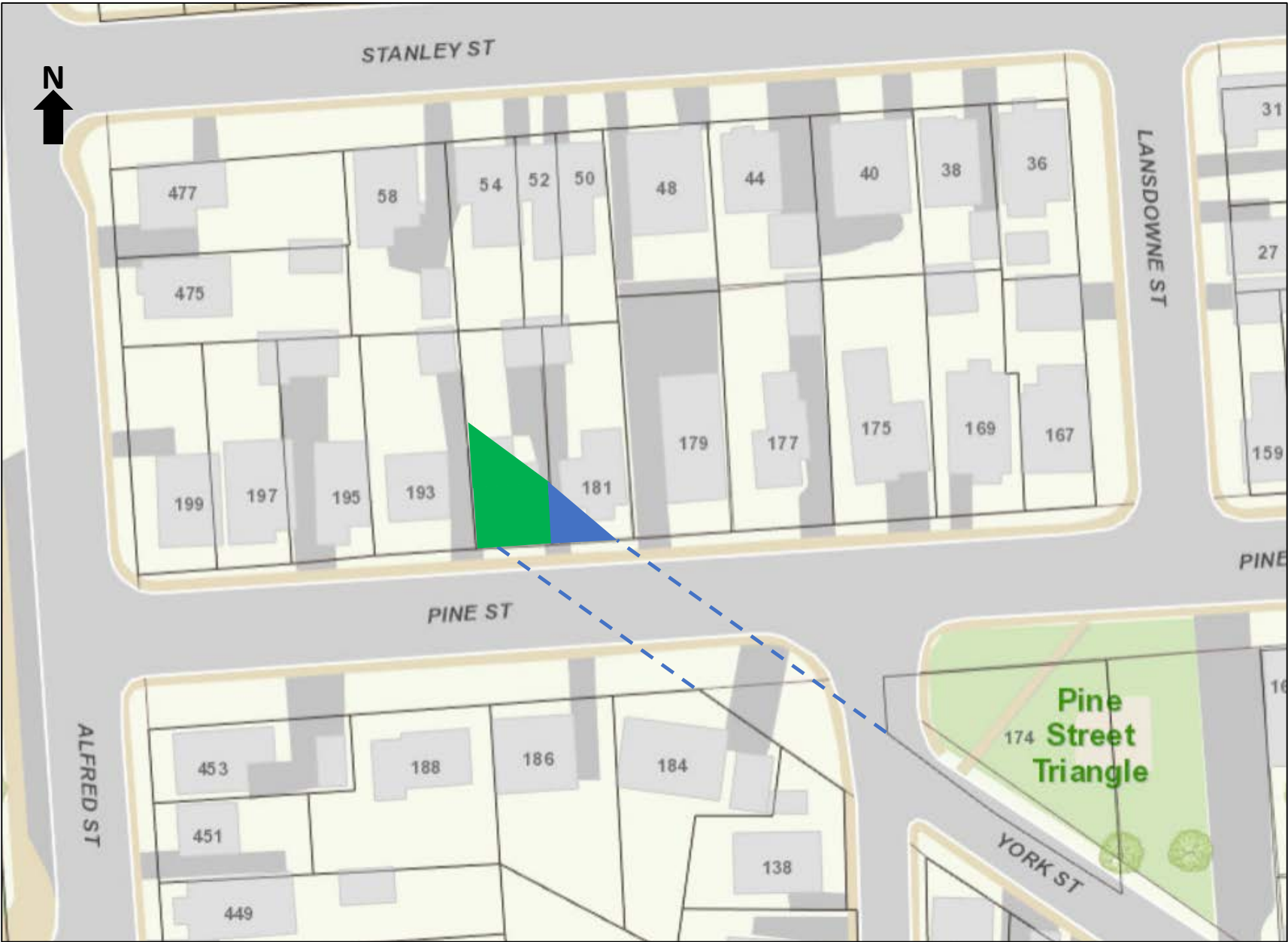
**Other City of Kingston Staff Consulted:**

Tyler Lasko, Manager, Design & Development, Engineering Services

**Exhibits Attached:**

Exhibit A      Location Map

Exhibit B      A By-Law to Permanently Close a Portion of the Highway over Part of Abstract Block "PP" Farm Lot 24 Concession 1 also known as York Street, further described as Part 3 on Reference Plan 13R-22061, City of Kingston



**LEGEND**



Road Allowance within 183 Pine Street to be closed



Road Allowance previously closed



Trajectory / Outline of Old Road (York St.)

**By-Law Number 2019-XX**

**A By-Law to Permanently Close a Portion of the Highway over Part of Abstract Block “PP” Farm Lot 24 Concession 1 also known as York Street, further described as Part 3 on Reference Plan 13R-22061, City of Kingston**

**Passed: Meeting date, 2019**

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

**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 over Part of Abstract Block “PP” Farm Lot 24 Concession 1 also known as York Street, further described as Part 3 on Reference Plan 13R-22061, City of Kingston, was published on July 30, 2019 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 over Part of Abstract Block “PP” Farm Lot 24 Concession 1 also known as York Street, further described as Part 3 on Reference Plan 13R-22061, City of Kingston, shall be permanently closed.
2. That a copy of this by-law be registered in the Frontenac Land Registry Office (No. 13).
3. That this by-Law shall come into force and take effect on the date of its registration.

Given First and Second Readings xxxx, 2019

Given Third Reading and Passed xxxx, 2019

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

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**Bryan Paterson**  
**Mayor**