



CITY OF HAMILTON

CITY MANAGER'S OFFICE
Legal Services Division
And
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Economic Development Division

TO: Mayor and Members General Issues Committee	WARD AFFECTED: Ward 4
COMMITTEE DATE: April 11, 2012	
SUBJECT/REPORT NO: Application for Approval to Expropriate 55 Queenston Road (City Motor Hotel) (LS12009/PED12076) (Ward 4)	
SUBMITTED BY: Ron Sabo Acting City Solicitor Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Helen Vastis (905) 546-2424, Ext. 2622 Keith Anderson (905) 546-2424, Ext. 7634
SIGNATURE:	

RECOMMENDATION:

- (a) That the Acting City Solicitor be authorized and directed to proceed with the necessary steps to expropriate the following real property, known as City Motor Hotel:

<u>Municipal Address</u>	<u>Owner</u>	<u>Description</u>
55 Queenston Rd. / 1620 Main St. E. City of Hamilton	KMTC-Key Management Technology Corporation (on title) 1284342 Ontario Inc. Mortgagee in Possession under Power of Sale	Part Lot 34, Concession 2 Geographic Township of Saltfleet, City of Hamilton as in HL135686 PIN 17267-0109 (LT)

for redevelopment purposes.

SUBJECT: Application for Approval to Expropriate 55 Queenston Road (City Motor Hotel) (LS12009/PED12076) (Ward 4) - Page 2 of 5

- (b) That the Acting City Solicitor be authorized and directed to prepare, and the City Clerk sign, an Application for Approval to Expropriate by the City of Hamilton property known as 55 Queenston Road, Part Lot 34, Concession 2, (Saltfleet), City of Hamilton, as in HL135686, for the purposes of redevelopment of the site;
- (c) That the Application of the City of Hamilton, signed by the City Clerk, to expropriate property known as 55 Queenston Road, Part Lot 34, Concession 2, (Saltfleet), City of Hamilton, as in HL135686, be authorized and that the said Application be hereby received, and that the Acting City Solicitor be authorized and directed to cause the necessary Notices in this Application to be served on the registered owner(s) of the property affected and, for advertisement of the said Notice of Application for Approval to Expropriate to be placed in The Hamilton Spectator, or other local newspaper, for three (3) consecutive weeks;
- (d) That the Acting City Solicitor be authorized and directed to forward to the Chief Inquiry Officer any Request for Hearings received, and to report to Council such information;
- (e) That in the event no Request for Hearing is received, the Acting City Solicitor be authorized and directed to introduce the Expropriation By-Law to City Council;
- (f) That the Manager of Real Estate, Economic Development Division of the Planning and Economic Development Department, be authorized and directed to obtain an external fee appraisal of the property if and when necessary; and,
- (g) That all the costs of the expropriation be split evenly and charged to following Capital Budget Item No. 3301249204 (Ward 4 Capital Re-investment).

EXECUTIVE SUMMARY:

This property is listed for sale by two independent real estate brokerage firms at different prices and representing different owners. Staff is requesting Council to approve the acquisition of this property by means of expropriation. Acquisition through typical means such as submitting an Offer to Purchase to the owner through its broker is not recommended in this instance due to title complexities. The title to these lands is clouded and it is unclear as to which party actually owns the property. Furthermore, the corporation that is the registered owner, has been dissolved, and there are several court orders registered against the title. There are also various liens registered on title in favour of both the federal and provincial governments, plus other writs, and notices. Expropriation is a process that will ensure the City obtains good title to the property. The purpose for acquiring this property is to redevelop the site.

Alternatives for Consideration - Page 4

FINANCIAL / STAFFING / LEGAL IMPLICATIONS:

Financial: Cost Centre Account No. 59259-3301249204 will be charged for the property acquisition cost.

Staffing: The expropriation process will involve staff time and effort, principally from Legal Services and Real Estate.

Legal: Legal Services will need to; prepare the Application for Approval to Expropriate and the Notice of Application for Approval to Expropriate, arrange for the Notices to be served on the registered owner(s) of the property, advertise for three (3) consecutive weeks in the local newspaper, forward to the Inquiry Officer any requests for a hearing that have been received, report to Council such information, and be involved in the drafting of an Expropriation By-law which will be introduced to Council. If the By-law to Expropriate is approved, within 30 days a Notice of Expropriation must be served upon the owner(s), including a Notice of Election (of the valuation date). After an appraisal, Legal Services is involved in serving an Offer of Compensation upon the owner(s) and a Notice of Possession. If there is a disagreement as to compensation offered by the expropriating authority, either party may request either a Notice of Negotiation or a Notice of Arbitration that would further involve Legal Services or its agent. Arbitration would be decided by the Ontario Municipal Board. Further, Legal Services will be involved in preparing any documents necessary to settle the matter, such as an Agreement to Accept Compensation and Full and Final Release. In addition to the above procedural requirements, Legal Services provides pertinent legal advice to other staff and to City Council on this matter.

HISTORICAL BACKGROUND:

The property has been available for sale since last August on the MLS of the Realtors Association of Hamilton-Burlington and the Toronto Real Estate Board. The property is attractive for civic use as it has potential for redevelopment for a variety of purposes, given its location on a major thoroughfare. The preference of City staff is to acquire the property in the usual willing buyer, willing seller, with the submission of an offer to purchase, however, due to a complicated and cloudy title, legal advice is that the City should proceed to acquire this property through the expropriation process in order to ensure that all of the parties that have an interest in these lands are dealt with and the City obtains a good title to this property.

POLICY IMPLICATIONS:

- ❖ Real Estate Portfolio Strategy Plan
- ❖ Growth Related Integrated Development Strategy
- ❖ Building a Strong Foundation
- ❖ Provincial Policy Statement
- ❖ Places to Grow

RELEVANT CONSULTATION:

- ❖ Strategic Services - Special, Planning & Economic Development Department
- ❖ Development Planning Section, Planning & Economic Development Department

ANALYSIS / RATIONALE FOR RECOMMENDATION:

This site is an excellent location for re-development.

Acquisition through the expropriation process is the best way to ensure that all of the relevant parties that have an interest in the subject lands have been dealt with and the City is acquiring good title to the lands.

ALTERNATIVES FOR CONSIDERATION:

That City Council does not proceed with the acquisition of the subject lands.

That the City purchases the property on a willing seller/willing buyer basis by submitting an Offer of Purchase and Sale to the vendor through his/its real estate broker(s). This option is not recommended due to the complex title issues, as stated previously.

CORPORATE STRATEGIC PLAN :

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Financial Sustainability

- ◆ Provide housing based on full municipal services in a sustainable, innovative and cost effective manner, generating assessment and tax growth.

Growing Our Economy

- ◆ Opportunity to provide for residential and/or mixed use development.

Social Development

- ◆ Acquisition of the site will provide opportunities for development of affordable housing on an arterial route serviced by public transit.

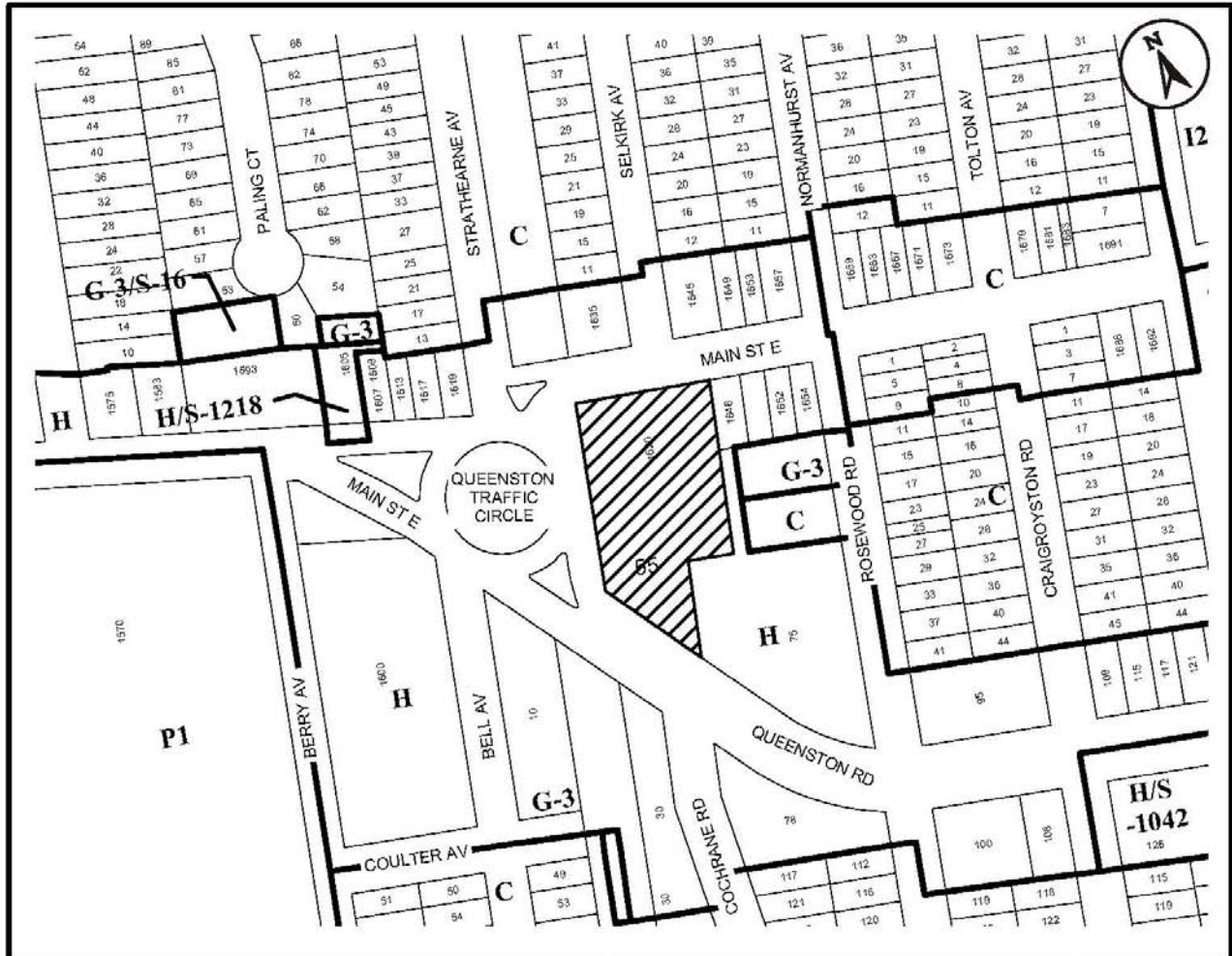
Healthy Community

- ◆ Plan and manage the built environment.

APPENDICES / SCHEDULES:

Appendix "A" to Report LS12009/PED12076 – Location Map

KA/HV/sd



● Site of the Application



Ward 4 Key Map

N.T.S.

Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: 55_Queenston_Rd	Date: April 5, 2012
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Appendix "A"	Scale: N.T.S.	Planner/Technician: KA/LMM
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Subject Property
 55 Queenston Road