



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Economic Development Division**

<b>TO:</b>	Mayor and Members General Issues Committee
<b>COMMITTEE DATE:</b>	June 19, 2024
<b>SUBJECT/REPORT NO:</b>	Pier 8 Development: Waterfront Shores Development Agreement, Greenway Strata Title, and Delegated Authority (PED23039(a)) (Ward 2)
<b>WARD(S) AFFECTED:</b>	Ward 2
<b>PREPARED BY:</b>	Andrea Smith (905) 546-2424 Ext. 6256 Chris Phillips (905) 546-2424 Ext. 5304 Dave McCullagh (905) 546-2424 Ext. 1647 Paul Lawson (905) 546-2424 Ext. 2628
<b>SUBMITTED BY:</b>	Norm Schleeahn Director, Economic Development Planning and Economic Development Department
<b>SIGNATURE:</b>	
<b>SUBMITTED BY:</b>	Ray Kessler Chief Corporate Real Estate Officer Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That staff be authorized to negotiate, complete and finalize any disposition, easements, conveyances, interface and other requisite agreements with Waterfront Shores Corporation, in whole or part of Blocks 12, 13 and 14 identified as the Greenway, as shown on Appendix "A" to Report PED23039(a), consistent with the key terms and conditions as outlined in this Report PED23039(a) in order to dispose the sub-strata portion of the Greenway and to preserve the City's ownership of the above grade portion of Blocks 12, 13 and 14 that includes both the surface portion to a defined depth and the air portion, to be more specifically defined and more particularly described in reference plans, and

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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.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

on such terms and conditions satisfactory to the General Manager of the Planning and Economic Development Department or designate, in a form satisfactory to the City Solicitor;

- (b) That staff be directed to credit Account No. 4411806107 with the net disposition proceeds from any sub-strata sale to Waterfront Shores Corporation;
- (c) That staff be directed and authorized to fund all costs associated with the agreements outlined in Recommendation (a) of Report PED23039(a) including any real estate and legal costs for each transaction from Account No. 4411806107, with real estate and legal costs credited to Account No. 55778-812036 (Real Estate – Admin Recovery);
- (d) That staff be authorized and directed to complete and finalize any required amending agreements or agreements comprehended within the Development Agreement dated November 1, 2021, between the City of Hamilton and Waterfront Shores Corporation, on such terms and conditions satisfactory to the General Manager of the Planning and Economic Development Department or designate;
- (e) That the General Manager of the Planning and Economic Development Department or designate be authorized to administer the Development Agreement dated November 1, 2021 between the City of Hamilton and Waterfront Shores Corporation and those other such agreements outlined in Recommendation (a) and Recommendation (d) of Report PED23039(a), provide any requisite consents, approvals, and notices in respect of any Agreements, including reviewing and responding to notices issued by Waterfront Shores Corporation and completing, providing and executing any requisite notices, consents, approvals, confirmations, extensions, or other administrative matters contained within the Development Agreement as may be amended as outlined in Recommendation (d) of Report PED23039(a), with such deemed reasonable and necessary to the satisfaction of the City Solicitor;
- (f) That the City Solicitor be authorized to amend and waive terms and conditions on such terms as considered reasonable to complete such agreements with Waterfront Shores Corporation as outlined in Recommendation (a) and Recommendation (d) of Report PED23039(a);
- (g) That the Mayor and the City Clerk be authorized and directed to execute any agreements with Waterfront Shores Corporation required to give effect to the

Recommendations contained in this Report PED23039(a), with all such documents and agreements to be in a form satisfactory to the City Solicitor.

## **EXECUTIVE SUMMARY**

In the spring of 2023, as Waterfront Shores Corporation, the City's development partner for Pier 8, advanced detailed designs of the various development blocks, an opportunity emerged to enhance the Pier 8 vision. This opportunity consists of permitting the consolidation of underground parking beneath the lands referred to as the "Greenway" while retaining the surface portion of the Greenway as an east-west pedestrian corridor across nine development blocks on Pier 8 (refer to Appendix "A" to Report PED23039(a)).

In April 2023 staff prepared Report PED23039 to update Council about this opportunity to: enhance the development form; outline the planning and real estate processes required to facilitate underground parking; and, to seek authorization on next steps.

On April 26, 2023, Council approved Report PED23039 recommendations which generally authorized and directed staff to: proceed with various planning and real estate processes; to facilitate the inclusion of underground parking below the "Greenway", while retaining public ownership and access to the at-grade portion of the "Greenway"; to negotiate an agreement with Waterfront Shores Corporation; and, to report back to General Issues Committee upon completion.

In October 2023, Council approved a zoning by-law amendment to permit underground parking within the Greenway. The zoning is now in force and effect.

Following approval of the rezoning application, staff commenced negotiations with Waterfront Shores Corporation to define the terms and conditions of the Greenway disposition agreement, including the terms and conditions outlined in this Report.

Recognizing that the "Greenway" and underground parking will be built in phases as part of the Pier 8 development, the purpose of this Report PED23039(a) is to complete the authority to implement the intention of the April 26, 2023, Council approvals. In general, the Report and its recommendations have been prepared consistent with the City's standard real estate and legal practices, and simply enact previously approval directions.

The Report recommendations seek delegated authority enabling any required revision to the Pier 8 Development Agreement, and the execution of all relevant agreements and instruments to complete the required real estate processes and legal agreements enabling underground parking within the Greenway, the stratification of the Greenway land, while enabling the continuation of the publicly accessible pedestrian-corridor to remain in the City's ownership.

**Alternatives for Consideration – Not Applicable.**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** The costs relating to the preparation and implementation of any required agreements and contracts related to the Greenway disposition process, including required external consulting services, for the recommendations up to \$200K were previously authorized for payment funded from West Harbour Capital Project Account No. 4411806107 through April 2023 staff Report PED23039. This approved capital account is funded by the proceeds of sale for the Pier 8 lands.

According to the terms and conditions outlined in this Report, the City will receive fair market valuation consideration for the disposition of the below-grade strata lands, based on the appraisal process as detailed in the Council approved Pier 8 Development Agreement. Disposition proceeds from any sub-strata sale to Waterfront Shores Corporation will be credited to Account No. 4411806107.

All costs associated with the agreements outlined in Recommendation (a) of Report PED23039(a) including any real estate and legal costs for each transaction be authorized and be funded from Account No. 4411806107 and with real estate and legal costs credited to Account No. 55778- 812036.

**Staffing:** There are no staffing implications associated with this Report. Existing staffing resources will be used to manage legal, administration and real estate processes outlined in this Report PED23039(a). External consulting services will be required to support this process, as noted above.

**Legal:** Legal Services will be required to assist in the preparation of the necessary documents required to complete the requisite agreements to facilitate the Recommendations of this Report PED2309(a) as well as assessing the legal implications related to these agreements.

**HISTORICAL BACKGROUND**

The following staff Reports and Council decisions provide background references to the Council-approved Pier 8 Development Agreement and the Greenway disposition process currently underway:

- On September 11, 2019, Council approved Confidential Report PED14002(i), titled “Pier 8 Development Agreement between the City of Hamilton and Waterfront Shores Corporation”, identifying the framework to be used within the negotiated Development Agreement;
- On April 26, 2024, Council approved staff Report PED23039 titled, “Potential Parking Layout Improvements and Greenway for the Pier 8 Development” with the following directions:
  - (a) That staff of the Municipal Land Development Office be authorized and directed to submit a City-initiated Zoning By-law Amendment application to permit underground parking within the below-grade strata land within the Pier 8 “Greenway” defined by Blocks 12, 13, and 14 as shown on Appendix “A” to Report PED23039;
  - (b) That, subject to Council’s future approval of the Zoning By-law Amendment outlined in Recommendation (a) to Report PED23039, the below-grade strata land within the Pier 8 “Greenway” defined by Blocks 12, 13 and 14 as shown on Appendix “A” to Report PED23039 be deemed surplus for the purposes of disposition, and staff of the Corporate Real Estate Office be authorized and directed to negotiate agreements with Waterfront Shores Corporation for the disposition of the subject below-grade strata land, while retaining full public ownership of the above grade Greenway, on terms and conditions that align and are consistent with the Pier 8 Development Agreement between the City of Hamilton and Waterfront Shores Corporation, and such other terms and conditions deemed appropriate by the General Manager of the Planning and Economic Development Department, and report back to General Issues Committee for approval;
  - (c) That staff be directed to explore the opportunity to accommodate public parking spaces within the Pier 8 development blocks, including consideration of how it could fit within a transaction structure of the proposed disposition of below-grade strata land within the Pier 8 “Greenway” defined by Blocks 12, 13 and 14 as shown on Appendix “A” to Report PED23039, and report back to General Issues Committee; and,
  - (d) That funding of all costs associated with the rezoning and potential disposition of below-grade strata land within the Pier 8 “Greenway” defined by Blocks 12, 13 and 14 as shown on Appendix “A” to Report PED23039, up to \$200K, through the West Harbour Capital Project Account No. 4411806107, be approved.

- On October 11, 2023, Council approved staff Report PED23201 titled “Application for a Zoning By-law Amendment for Lands Located at 65 Guise Street East, Hamilton” which recommended approval of rezoning the Greenway lands from P5 to P5-Exception to permit underground required parking, subject to a Holding Provision.
- On November 22, 2023, Council approved staff Report PED22031(a) titled “Applications for an Official Plan Amendment and Zoning By-law Amendment for Lans Located at 65 Guise Street East (Pier 8, Block 16), Hamilton” which recommended approval of redesignating and rezoning lands to permit a maximum 45 storey mixed use building, subject to a Holding Provision. This application was appealed to the Ontario Land Tribunal, however, was subsequently withdrawn resulting in the amendments coming into effect on April 15, 2024.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

City Council, at its meeting of November 24, 2004, adopted the City’s Portfolio Management Strategy Plan, which established a formalized process to be consistently applied across all areas of the City to guide the management of the City’s real property. In accordance with the City’s Portfolio Management Strategy, By-law 14-202, property no longer required for municipal programs is declared surplus by Council and is disposed of in accordance with this policy.

## **RELEVANT CONSULTATION**

- Planning and Economic Development Department:
  - Economic Development Division;
  - Planning Division;
  - Corporate Real Estate Office;
- Public Works Department:
  - Environmental Services (Parks and Cemeteries, Landscape Architectural Services);
  - Engineering Services (Waterfront Development Office); and,
- Corporate Services Department:
  - Legal and Risk Management Services Division.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

In the spring of 2023, as Waterfront Shores Corporation, the City’s development partner for Pier 8, advanced detailed designs of the various development blocks, an opportunity

emerged to enhance the Pier 8 vision. This opportunity consists of permitting the consolidation of underground parking beneath the lands referred to as the “Greenway” while retaining the surface portion of the Greenway as an east-west pedestrian corridor across nine development blocks on Pier 8, as illustrated in Appendix “A” to Report PED23039(a).

A number of benefits would be achieved by consolidating underground parking between the development blocks under the Greenway, including:

- Fewer driveway accesses and diversion of traffic away from public park amenity areas and associated park users on Pier 8 (e.g. Coppins Pier);
- More efficient use of developable land; and,
- Reduction of surface parking and associated surface vehicular circulation shifting parking area from the public realm.

On April 26, 2023, Council approved Report PED23039 which in summary:

- Authorized and directed staff to submit a City-Initiated Zoning By-law Amendment application to permit underground parking within the below-grade portion of lands under the Greenway;
- Deemed the below-grade portion of lands under the Greenway surplus for the purposes of disposition, subject to Council approval of the rezoning;
- Authorized and directed staff to negotiate agreements with Waterfront Shores Corporation to permit underground parking, on the terms and conditions that are consistent with the Pier 8 Development Agreement between the City and Waterfront Shores Corporation, dated Nov. 2021; and,
- Directed staff to explore the opportunity to accommodate public parking spaces within the Pier 8 development blocks.

In October 2023, Council approved the zoning by-law amendment and Report PED23201 to permit underground parking within the Greenway (File: ZAC-23-035). The zoning is now in force and effect.

Following approval of the rezoning application, staff commenced negotiations with Waterfront Shores Corporation to define the terms and conditions of a disposition agreement(s) towards the sale of the below-grade portion of lands under the Greenway. These discussions have progressed substantially and are close to being finalized.

The agreement(s) as contemplated in this Report PED23090(a) pertaining to Blocks 12, 13 and 14 of the Registered Plan of Subdivision (62M-1287) address and detail the:

- i. Relationship between the Greenway disposition agreement with the Pier 8 Development Agreement between the City and Waterfront Shores, November 2021, including the alignment to the development schedule and phasing plan;
- ii. Intention to stratify the Greenway, with below grade portions to be part of the parking garage forming part of the buildings to be constructed by Waterfront Shores, and the above grade portions to be owned by the City and used as a pedestrian corridor, stormwater management feature and public space;
- iii. Conveyance process, appraisal considerations and encumbrances to be registered on title;
- iv. Responsibilities associated with the design and construction of the parking structure;
- v. Responsibilities associated with the design and construction of the Greenway;;
- vi. Responsibilities associated with the relocation of existing infrastructure, services or utilities as a result of the construction of the parking garage;
- vii. Easements over the parking garage and over the Greenway (e.g. easements related to structural support, access, maintenance and repair);
- viii. Maintenance and repair of the support elements and waterproofing systems that forms part of the parking garage;
- ix. Maintenance and repair of the Greenway;
- x. Insurance obligations; and,
- xi. Administrative and general terms and conditions.

Concurrent to the Greenway Strata agreement process, discussions have also begun between the City and Waterfront Shores to explore potential partnership options whereby some element of public parking could be incorporated within the underground parking structures as part of the planned development across Pier 8. Currently, the supply of public parking is primarily served on temporary surface lots (e.g., across from Williams Cafe on Blocks 16, 1 and 4). As development progresses on Pier 8, there will be a loss of

public parking spaces, and as such, future supply of public parking remains an outstanding issue. Staff will report back on potential partnership options and recommendations on additional terms and conditions when appropriate.

Subject to Council approval of this Report PED230939(a) recommendations, staff would proceed in accordance with the applicable planning framework, Council-approved corporate policies, legislation and regulations, and consistent with contractual obligations set out in the Council-approved Development Agreement between the City and Waterfront Shores Corporation which contains terms and conditions pertaining to:

- Dates and milestones of the development blocks;
- Financial payment structure, schedule and timing;
- Control and ownership rights to the lands;
- Relationship governance over the course of the relations between the Parties;
- Defined obligations of both Parties;
- Affordable Housing obligations of the development;
- Environmental and energy consumption obligations of the development;
- Indemnity and Insurance obligations; and,
- Contingency, default, termination, and alternative dispute resolution rights.

### **ALTERNATIVES FOR CONSIDERATION**

Reject the Recommendations of this Report PED23093(a), thereby declining the stratified ownership structure of the “Greenway” lands to facilitate consolidated underground parking. Waterfront Shores Corporation would proceed to develop the Pier 8 site within the terms and conditions of previous approvals and agreements.

### **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to Report PED23039(a) – Location and Key Map