



## **Staff Report for Council Meeting**

**Date of Meeting:** June 22, 2022

**Report Number:** SRPI.22.034

**Department:** Planning and Infrastructure  
**Division:** Infrastructure and Engineering Services

**Subject:** **SRPI.22.034 – Response to Council Motion:  
Report on assumption of the private laneway for  
freehold townhouses 141-247 Shirley Drive**

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### **Purpose:**

To provide information regarding the Member Motion brought forward by Councilor Liu at the February 23, 2021 Council meeting regarding the challenges and options for the assumption of the private laneway servicing the freehold townhomes known municipally as 141-247 Shirley Drive.

### **Recommendation(s):**

- a) That Staff Report SRPI.22.034 be received for information purposes

### **Contact Person:**

Dan Terzievski, Director Infrastructure Planning and Development Engineering

Jeff Stewart, Director Public Works Operations

Gus Galanis, Director Development Planning

Antonio Dimilta, City Solicitor

### **Report Approval:**

**Submitted by:** Kelvin Kwan, Commissioner of Planning and Infrastructure

**Approved by:** Darlene Joslin, Interim City Manager

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), City Solicitor (as required), Commissioner, and City Manager. Details of the reports approval are attached.

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### Background:

#### **Staff have been directed by Council to report back, outlining challenges and options for the assumption of the Shirley Drive Laneway**

At the February 23, 2022 Council Meeting, a Member Motion was brought forward by Ward 3 Councillor Liu directing staff to investigate the challenges and options for the assumption of the private laneway servicing the Shirley Drive freehold townhomes (municipally known as 141-247 Shirley Drive) as a designated public highway, including the above and belowground infrastructure. The Members Motion, as amended by Council, is as follows:

*WHEREAS the Shirley Drive townhomes built in 1997/1998 have an ownership arrangement for their rear laneway that is unique within in the City of Richmond Hill, and pre-dates the Condominium Act, 1998;*

*WHEREAS the builder, Law Development Group, registered "For Profit" Corporation 1286302 Ontario Limited with a residents' Board of Directors to govern and self-manage the maintenance and upkeep of the laneway under the terms of a Shared Facilities Agreement under which residents purchased their homes;*

*WHEREAS the Shirley Drive Rear Laneway townhomes are not registered under the Condominium Act, 1998 and therefore, are not supported by legislative requirements provided by the Condominium Act;*

*WHEREAS in order to provide relief to residents who have been disadvantaged with this unique arrangement over the past 23 years;*

*WHEREAS in order to eliminate the onerous and unsustainable expectation placed on residents to operate a self-managed committee without the support of the legislative provisions provided by the Condominium Act;*

*WHEREAS in order to eliminate the burden on residents to understand environmental sensitivities and technical requirements related to catch basin stormwater management and other infrastructure needs.*

*WHEREAS residents are entitled to receive equal levels of service and maintenance as other City owned rear laneway townhomes;*

*WHEREAS the City of Richmond Hill should achieve uniformity with other City owned rear laneway townhomes;*

*AND WHEREAS current residents have approved a 100% majority signed petition requesting the City of Richmond Hill to assume ownership and maintenance responsibilities for the rear laneway;*

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*THEREFORE, BE IT RESOLVED THAT:*

*Council direct staff to investigate and report back on the possible challenges and options for the assumption of the private laneway (above and below ground) for the freehold townhomes known municipally as 141-247 Shirley Drive as a designated public highway, in keeping with other freehold rear laneway townhomes operated and maintained by the City by June 2022.*

*And that should any information about laneways come to Council, that all information known to staff about laneways be brought to Council at that time.*

**Planning, legal, construction, operating, and maintenance challenges have been contemplated for both the City and residents of Shirley Drive in considering the assumption of the Shirley Drive Laneway, along with other ownership options**

Staff from various divisions across the City have been consulted on this Motion and have contributed to in the preparation of this report. In response to the member motion, historical background context is provided specifically with respect to the Shirley Drive Laneway approval, as well as a number of ownership options for Council to consider along with the associated risks and challenges for each.

**Laneways approved as part of compact residential development similar to the Shirley Drive Laneway are the primary focus of this report in responding to the Member Motion**

In order to provide clear context, the analysis focuses on laneways approved through modern compact residential development since the 1990's, as an alternative street type option for urban design to accommodate higher density forms of housing. For clarity, compact development refers to multi-unit ground related residential development.

Historic laneways established in the City of Richmond Hill prior to the 1990's or through acquisition of road allowances, have not been included as part of this investigation. These laneways were created historically or often for specific purposes different from laneways in new development, such as to provide lake and cottage access, service access to municipal water and/or sanitary infrastructure, utility corridor access for gas, above ground telephone and hydro poles, or to protect for future municipal roads.

As such, staff focused on investigating laneways approved through modern residential development applications within the City of Richmond Hill serving similar functions to Shirley Drive, in order to better understand their design, current ownership structure, and maintenance obligations to inform options for the Shirley Drive Laneway.

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### **The Use of Laneways in New Development:**

**The use of rear laneways in development is a relatively new concept encouraged by the Province of Ontario to achieve compact development forms in nineties**

The concept of laneways in modern compact residential development emerged in the 1990's. During this period, the use of laneways was encouraged by the Province of Ontario as part of their alternate development standards for new growth. Introducing rear lanes was an initiative to stimulate innovative and more efficient forms of housing and reduced servicing costs.

In the Provincial Guideline entitled "Making Choices" published in April 1995, referenced in SRE.95.152 (Appendix 2), rear lanes are promoted as an effective way of achieving compact development. The document cites that "Rear lanes can also provide an improved streetscape. Placing garages and parking spaces at the rear of the lot frees up the front of the house for such community supporting features as gardens, front porches, and house entrances".

**In order to achieve compact development forms, laneways are often constructed to alternative development standards, but are typically under private ownership since they do not satisfy municipal requirements or standards**

Public streets are designed to have a wide right-of-way, gentle gradients, and different infrastructure and materials in order to comply with municipal design and construction standards, meet legislative requirements, satisfy operational needs, and to accommodate and ensure the safety of the general public. As these standards are more onerous, they may limit the ability to implement compact alternative housing forms for non-freehold developments. Public Streets also require conveyance of lands to the Municipality, which will result in reduction of developable land and can impact lot sizes and create potential zoning conformity challenges which may require relief from the zoning by-law standards for lot sizes, setbacks, etc.

Implementing compact development forms can often only be achieved by applying flexible and alternative design standards. Adopting alternative site development standards to accommodate compact development forms is recommended in the Province's Stormwater Management Planning and Design Manual published in March 2003 ([www.ontario.ca/document/stormwater-management-planning-and-design-manual/environmental-planning](http://www.ontario.ca/document/stormwater-management-planning-and-design-manual/environmental-planning)). Furthermore, Appendix A.4.5 in the Province's manual titled "Adoption of environmentally responsible subdivision/site planning and design criteria" expresses that alternative development standards for services (i.e. roads, laneways, stormwater infrastructure, etc.) which do not meet municipal standards are generally permitted in non-freehold development projects (i.e., condominium and freehold developments with common element, etc..) where they are not municipally maintained.

Where laneways are constructed with reduced or alternative designs not meeting municipal requirements they are typically under private ownership, as they do not satisfy one or more of the public requirements noted above.

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### **The Condominium Act does provide different forms of Private Ownership for Laneways in Townhouse Developments**

In Richmond Hill's experience, the most common form of freehold and condominium ownership proposed by developers fall into two categories being Standard Condominium Corporations and Common Elements Condominium Corporations. Depending on the type of governance, the maintenance responsibilities can vary according to the ownership structure as outlined below:

***Standard Condominium Corporations*** – the homeowner owns and is responsible for the upkeep and maintenance of their unit that is limited to the internal components of the unit. Condominium unit owners make up a condominium corporation that collects dues to cover ongoing maintenance and replacement costs for the common elements of the corporation, including private roads.

***Freehold with Common Elements Condominium Corporations*** – also known as a fee simple townhome ownership, the homeowner actually owns a parcel of land (freehold) which is tied to one or more of the common elements condominium corporation. A condominium corporation made up of homeowners that share these facilities manages common elements such as a private laneway, road, and amenities. Owners jointly fund the maintenance, repair, and replacement costs through the payment of common expenses.

It should be noted that there are also completely Freehold Townhouses (or Street Townhouses), which are in simplest terms a house attached on both sides with frontage and driveway access on a municipal road. In this case, there are no management fees, no condominium board and no common areas. However, the delivery of municipal services is provided in the same manner as traditional detached homes, relying on either existing municipal services and roads or new municipal services and roads that have been constructed and maintained to municipal standards.

### **Laneways within the City of Richmond Hill:**

With the City continuing to shift toward more intensification and mixed housing, and with the Provincial guidance noted above, there have been a number of developments with laneways that have been approved in the Richmond Hill over the last twenty-five years. These laneways primarily provide access for residents within condominium developments such as high-rise, low-rise and freehold townhouses with common elements.

**There are both public and private laneways in the City of Richmond Hill, however most are privately owned and operated**

In the City of Richmond Hill, two types of residential laneways exist through new compact development, specifically public and private.

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Private laneways, also known as condominium roads, are privately owned and maintained by the benefitting residents typically facilitated through a condominium board. There are approximately thirty-six existing developments with private laneways and twenty-seven approved and/or under construction in the City. Appendix 1 provides a listing and description of private laneways within the City.

However, the City also has a small number of public laneways, constructed to municipal standards, which are classified as lanes that are municipally owned and operated. There are only thirteen of these in the context of new and modern compact residential development. Appendix 2 provides a complete inventory of Public laneways in the City and the rationale for their approval.

### **The City uses established criteria for determining the type of laneway to approve for new development**

The types of laneway, public or private, serve different purposes and are comprised of different corridor widths, which will influence the design layout of a residential project. Development, such as high-rise, low-rise and row condominiums mainly consist of private condominium roads or laneways, which is the preferred tenure type by developers as it can achieve the most compact form and minimizes maintenance costs for dwelling unit owners.

Private laneways have minimal or no building setbacks from the lane in order to achieve compact development form and require no land dedication to the Municipality.

In contrast, a public laneway requires land dedication to the City and requires more land and a wider right-of-way to achieve municipal infrastructure standards, maintenance requirements, and to accommodate the needs of the general public. This reduces the developable land and introduces setback requirements, which may impact the development footprint.

Understanding the primary function and intended use of a laneway helps determine the classification type (public or private), and inform which criteria and development standards to apply.

The criteria outlined in Table 1 is used in the development review process to evaluate whether a laneway should be public or private, and apply the appropriate design and development guidelines as outlined below:

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**Table 1: Design Criteria for Private vs Public Laneways**

	<b>Private Laneway</b>	<b>Public Laneway</b>
<b>Function and Purpose</b>	<ul style="list-style-type: none"> <li>• support compact development form and allow for development to occur on smaller parcels of land</li> <li>• avoid multiple driveways on City and Regional streets and to prohibit driveways along collector and arterial roads to improve performance, minimize traffic conflicts and disruption</li> <li>• achieve improved neighbourhood aesthetics and urban streetscape by decreasing the dominance of residential garages and driveway along the public street</li> </ul>	<ul style="list-style-type: none"> <li>• facilitate municipal needs such as:</li> <li>• access for the general public to adjacent developments through a connecting series of laneways</li> <li>• access to public open spaces and recreational facilities within the development</li> <li>• providing for municipal infrastructure servicing more than one development</li> <li>• provide for and improve public linkages and support neighbourhood connectivity</li> </ul>
<b>Design Criteria</b>	<ul style="list-style-type: none"> <li>• typically designed to reduced standards to accommodate private infrastructure</li> <li>• designed to accommodate for private boulevard treatment, utilities, landscaping, pedestrian access, street furniture, lighting, underground services, etc.</li> <li>• designed to facilitate a minimum 6.0 metre pavement width to allow for fire route, waste collection and for a two-way aisle</li> <li>• may incorporate reduced snow storage space for private snow removal</li> <li>• laneway design excludes municipal infrastructure (above and below ground)</li> </ul>	<ul style="list-style-type: none"> <li>• exceed minimum private laneway standards and are designed to meet local road standards</li> <li>• achieve a minimum laneway width of 9.0 metres through a combination of land dedication and easements to accommodate pavement width and snow storage space</li> <li>• laneway design and road geometrics are similar to municipal local roads</li> <li>• lane design considers municipal winter maintenance and waste collection requirements capable of allowing appropriate maneuvering of heavy vehicles and turn around</li> <li>• municipal infrastructure within public lanes are limited to street lighting and laneway drainage system and unencumbered by private infrastructure</li> <li>• public lanes have a minimum boulevard width of 2.0 metres to allow for sufficient snow storage</li> </ul>

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### **Previously, Council has provided direction to no longer approve public laneways in new development without their approval**

While Table 1 outlines the current criteria in determining the classification and characteristics for laneways in new development, the City does own and operate a small number of public laneways that do not fit this criteria and are not appropriate from a maintenance and operation perspective for the Public Works Operations.

Between 1997 and 2002, based on the Province's guidelines encouraging the use of laneways in new development, the City did approve thirteen Public Laneways as outlined in Appendix 2. In 2001, Public Works Operations (formerly known as Engineering and Public Works) raised concerns through Staff Report SRE.01.112 (attached in Appendix 3) regarding increased maintenance challenges and costs associated with snow clearing, pavement management, lighting, etc. The report outlines the lessons learned from ownership of public laneways approved in the Bayview Glen Community subdivisions. Council approved Staff's recommendation that new laneways be approved for use only when ownership and maintenance is to be carried out privately through a plan of condominium, and that any proposed exceptions to this policy be subject of separate reporting and approval of Council.

### **Shirley Drive Laneway - History and Current Conditions:**

The use of laneways in new development was first proposed in Bayview North in 1996 by Law Development involving the Shirley Drive street townhouse development as noted in Staff Report SRE.01.112. The concept of rear laneways providing access to garages was a relatively new concept in a suburban context at that time, and had never been contemplated by the City of Richmond Hill for a modern townhouse development until the City received the application from the Law Development Group.

The townhouse development proposed by Law Development Group in 1995 included 48 freehold townhouse units fronting onto Shirley Drive, with garages situated in the rear of the units and accessed via a privately owned 6 metre wide laneway to exclusively serve the development, providing little to no space for snow storage and not in keeping with municipal standards.

### **The City required that the Shirley Laneway be constructed to municipal standards and to be publically owned**

As indicated in Staff Report SRP.96.054 (attached in Appendix 4), in considering the developer's concept, the City identified their concerns with this proposal, including the possibility of residents requesting the City to assume ownership of the laneway in the future should there be maintenance or administrative problems with a private arrangement. In response, the City indicated it would accept a public laneway conveyed to the City and constructed to a municipal standard with a 10 metre right-of-way, which would consist of a 6 metre wide pavement, as well as space to facilitate public snow removal, garbage collection, and related appurtenances.



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### **A reduced laneway design under private ownership was proposed for the Shirley Drive development, which was approved by Council**

Law Development Group responded that they would design the units to facilitate garbage pick-up from the front of the units along Shirley Drive by incorporating masonry garbage enclosures into the landscaping design. They also indicated that the reduced 6 metre laneway would remain under the ownership of each property and that access would be facilitated through the creation of mutual easements which would be granted in favour of the other 47 unit owners. Since this development preceded the Condominium Act, 1998, the arrangement proposed at the time by the developer for ongoing management of the laneway was through a Shared Facilities Agreement between the owners. This agreement would be registered on title to make future purchasers aware of the agreement prior to land transfer, and establishes the terms for the collection of fees and the ongoing operation, maintenance repair, replacement and administration of the facilities.

Lessening the lane's right-of-way width afforded the developer more developable land to increase the rear yard amenity areas, but significantly reduced snow storage space in the laneway.

Since the concept of privately owned rear lanes was relatively new and had not been approved elsewhere in the City at that time, staff had prepared Staff Report SRP.96.054 for Council seeking direction on the private ownership arrangements proposed by Law Development Group, as well as outlining the benefits and challenges of this arrangement. Council approved the recommendations of the report, which included the approval of the 6 metre wide laneway under private ownership.

### **A Shared Facilities Agreement is in place and registered on title for each townhouse within the development and a Landowners Committee has been established to oversee the terms of the agreement**

The Shirley Drive Laneway Committee has informed the City that the current ownership structure for the private laneway consists of a Landowners Committee, created through a Shared Facilities Agreement registered on title for each townhouse within the development, to oversee the terms of the Shared Facilities Agreement. The Shared Facilities Agreement oversees the long-term maintenance of the laneway with provisions to collect monthly fees, and that mutual easements have been established to create legal access across properties in favour of all the owners.

The Shared Facilities Agreement between Law Development Group and 1286302 Ontario Limited, being the Agent of the unit owners at the time, was registered in 1998 with respect to the operation, maintenance, repair, replacement and administration of the laneway. To the extent that the Landowners Committee has exercised its due diligence through the shared use agreement for its intended purpose as mentioned above in unknown.

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### **Ownership Options for Shirley Drive Laneway Moving Forward:**

In response to the Members Motion, Staff have explored ownership options for Council's consideration, taking into account the implementation challenges and other aspects that would need to be considered by the City and the residents from planning, legal, risk, financial and ongoing operations and maintenance perspective.

#### **1. STATUS QUO**

##### **The existing ownership arrangement already allows for the continued management of the Shirley Laneway and is the simplest approach for residents**

The Shirley laneway is already governed by a Landowners Committee created through a Shared Facilities Agreement, which is registered on title for each property along with easements to provide for mutual access and maintenance of assets.

Maintaining the status quo is the simplest arrangement, as it does not place any additional burden or impacts on homeowners, it does not require additional land conveyances or planning applications, and is generally consistent with how reduced laneways in other townhouse developments function.

It would be incumbent upon the Landowners Committee to provide the appropriate administration of the laneway through the shared use agreement for the operation, maintenance, repair and replacement of its assets. In order to reduce the burden on the Landowners Committee members, and ensure the ongoing maintenance and repair of the laneway is properly administered, the homeowners and committee may consider leveraging a professional property management company to oversee and assist with the maintenance of the laneway.

##### **While not a condominium ownership, this arrangement still sets out similar administration and obligation parameters to other privately owned laneways constructed to reduced design standards**

Similar to a Condominium Corporation, the Shared Facilities Agreement outlines the obligations of each homeowner and establishes the parameters of which the Landowners Committee will operate and how they will maintain the laneway. These parameters include, but are not limited to, preparing and delivering an annual budget for the projected common expenses, establishing and maintaining a reserve fund for major repairs and replacement of the shared facilities and determining the contribution for all members and provisions to collect monthly fees.

##### **Maintaining the status quo has no impacts for the City**

From the City's perspective, there are no additional impacts or burdens resulting from maintaining the status quo.

#### **2. CONVERT THE SHARED FACILITIES AGREEMENT TO A COMMON ELEMENT CONDOMINIUM OWNERSHIP**

##### **A common elements condominium corporation will be the simplest option to ensure the Shirley Drive Laneway is consistent with other privately owned laneways constructed with reduced standards**

Similar to the responsibilities set out in the shared facilities agreement, a condominium corporation would have full authority, power and responsibility over all

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matters relating to the operation, maintenance, replacement and administration of the shared facilities. This includes preparing and delivering an annual budget for the projected common expenses, establishing and maintaining a reserve fund for major repairs and replacement of the shared facilities and determining the contribution for all members.

### **Converting the Laneway to condominium ownership would require a planning application, legal transactions, and the consent of all landowners**

Converting the Laneway to a condominium ownership would require administrative work, and would have some cost implications to the homeowners and the Committee as a result of administrative fees, preparation of plans and preparation of the condominium documentation.

A planning application would be required to formalize this arrangement and legal documents will need to be prepared.

Owners would need to elect a board of directors to oversee the business affairs of the condominium corporation and to conduct mandatory annual meetings and keep records of minutes (similar to existing shared facilities agreement). In order to achieve this ownership arrangement, all of the homeowners within the Shirley Drive development would have to agree to move forward with formalizing this arrangement. In the event that all homeowners agree, municipal resources may be available for guidance and direction to the Landowners Committee through the process.

### **Converting to condominium ownership for the Shirley Drive laneway would have little impacts for the City**

As with the status quo option, there would be no additional impacts or burdens to the City from this option. This option would also make Shirley Driveway consistent with other townhouse developments in the city that have private laneways constructed to alternative development standards.

## **3. MUNICIPAL ASSUMPTION OF THE LANEWAY**

### **Municipal assumption of the Shirley Drive Laneway under public ownership poses the most significant impacts, risks, and challenges for both the City and the landowners**

While feasible, assumption the Shirley Drive Laneway under public ownership is the most cumbersome option and presents the most significant challenges and impacts from both the City's and landowners' perspective.

### **Assumption of the Laneway would require one hundred percent of the Shirley Drive landowners to agree to a conveyance of all of the Laneway Lands to the City free of all costs and clear of encumbrances**

If the City takes ownership of the Shirley Drive Laneway, the lands associated with the laneway would need to be fully conveyed to the Municipality to establish a public right-

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of-way. One Hundred percent of the Shirley Drive landowners would need to agree to the conveyance in order to be able to accomplish this, as each would need to agree to transfer their respective portion of property that contains the Laneway to the City free of costs and with no encumbrances including any liens, claims, charges and/or mortgages.

An up to date survey of the laneway would be required to ensure that there are no encroachments over the Laneway. Environmental investigations would also be required to ensure that there are no environmental issues with respect to the Laneway. Council authority would be required for the acquisition of the laneway by the City at no added cost to the City.

Land transfers to the municipality would require the retention of a lawyer by the landowners to complete the transfer. If a single owner now or in the future, prior to the transfer, does not cooperate, the City would need to consider the expropriation of that portion of the owner's private Laneway which would result in an unquantifiable cost and risk to the City, and is not considered an feasible or appropriate option by Staff.

### **Assumption of the Laneway would also reduce lot sizes, triggering planning applications and legal administration for the residents**

These land transfers would effectively reduce the individual parcel sizes and property boundaries for each townhome. A survey and reference plan would have to be prepared to enable a proper zoning review to confirm if individual lots are in conformance with the zoning by-law standards. Should the zoning review of the proposed condominium plan result in the lots being legal non-conforming, it could trigger a planning application for such relief as a minor-variance.

It has been the experience of staff that as the conveyance of lands to the City changes the property description, this may sometimes trigger a property appraisal and/or re-assessment by the homeowner's financial lender, which may affect the owner's current mortgage.

### **Assumption of the Laneway would incur unquantifiable operating and capital expenses and liabilities for the City**

If assumed by the City, the aboveground and belowground infrastructure in the Shirley Drive Laneway would become a municipal capital asset, which the City would be responsible for, along with the capital costs associated with the ongoing repair and replacement of this infrastructure as well as potentially upgrading this infrastructure in the future to bring it up to a municipal standard.

These capital asset costs would include, but may not be limited to, costs associated with the pavement, illumination, storm drainage system, as well as adjacent retaining walls and fences. Note that some of these costs would have to be borne by the City in the near term if assumed, as this infrastructure is already approximately twenty-five years old and there are items that need immediate repair based on recent visual inspections conducted by staff (i.e. retaining walls and fences). These capital costs will continue to increase in the longer term as the infrastructure continues to age.

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There is also the ongoing operating and maintenance costs associated with these assets that would need to be borne by the City. These would include, but may not be limited to, annual winter maintenance, cleaning of catch basins and ongoing routine repair of pavement, curbs, fences, retaining walls, illumination, and storm systems.

To reiterate, the Shirley Drive laneway does not meet municipal requirements in terms of design or right-of-way. As such, items such as laneway pavement and the drainage system may require more frequent maintenance, repairs, and replacement, and the ongoing maintenance of items such as illumination may cost more as these light fixtures would be unique to the City.

Furthermore, given the physical limitations of the Laneway, the costs for snow removal will be significantly higher than typical snow removal costs for the City, as it has been designed with insufficient snow storage space, which is coupled with inadequate turn-around areas for winter maintenance vehicles at the south end of the laneway. Therefore, in order to conduct routine maintenance, the City would need to either acquire specialized or additional equipment (such as loaders and trucks) to remove snow off site (resulting in longer duration time for snow removal) or the City would need to retain a contractor to provide these services.

There is also an enforcement aspect related to the winter maintenance that will need to be considered. In order to ensure that the City can conduct appropriate snow removal activities on time, By-law Enforcement may need to be engaged from time to time to ensure that the laneway is clear.

Overall, the assumption of the laneway by the City would result in unquantifiable capital replacement costs and annual operating costs, which would have to be determined through a detailed laneway condition assessment and costing evaluation.

### **Assumption of the Shirley Drive Laneway would also expose the City to additional risks and liabilities**

Assumption of the Shirley Drive Laneway could also expose the City to additional risks, liabilities, and claims in the future, especially given the reduced criteria used for the design and construction of the laneway, the unique maintenance needs of the laneway, and the possible precedent this assumption would set.

For example, as noted above there would be insufficient turnaround space available at the south end of the site for snow removal vehicles to turn around without encroaching onto private property or performing unsafe maneuvers such as backing up the Laneway. This poses additional safety hazards for snow removal operators and residents, and could increase risks of private property damage and claims against the Municipality.

Also, as the Laneway has inadequate snow storage space, snow removal operations could result in damages to private property such as privacy fences and garages given their proximity to the travel lanes.

If the City becomes responsible for the non-typical assets, such as wood privacy fences and retaining walls on or adjacent to neighboring properties, the City would be

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assuming additional liabilities and risks if these assets are not appropriately maintained or damaged by residents.

### **Existing Service Levels for the residents could be reduced if the City assumes the Laneway**

As this laneway only serves access to the residents, it will be considered a low priority in terms of the winter maintenance program (similar to cul-de-sacs). Furthermore, City winter maintenance operations are only triggered during certain winter events when a minimum snow amounts are accumulated. As these residents currently have these services delivered by a private contractor, the service provided by City forces may not meet the resident's expectations.

In addition, as there is inadequate snow storage, the windrow created in front of the garages by City snow removal operations may also not meet the expectations of residents and result in additional complaints. Given the proximity to garage faces, windrow clearing is not likely an option for this laneway.

### **Assumption of the Shirley Drive Laneway may establish a precedent for the City to assume other private laneways built to alternative design standards**

Assuming public ownership of Shirley lane could also initiate further requests for the City to assume other private laneways that have been built to reduced or alternative standards.

### **The Shirley Drive Laneway should be in a state of good repair and appropriate operating and capital budgets need to be established before Council considers assumption**

Should Council wish to move forward with the assumption of the Shirley Drive Laneway, Staff recommend that the Landowners Committee have a full condition assessment of the Laneway and its related assets completed by a qualified engineering firm, and that all infrastructure be brought up to a reasonable state of good repair prior to assumption by the City. Furthermore, staff recommend that appropriate operating and capital budgets be approved by Council for the ongoing operation, maintenance, repair, and replacement of the Laneway, prior to assumption.

### **Financial/Staffing/Other Implications:**

Since this staff report simply outlines information for Council in response to a Member Motion, there are no direct financial or staffing implications associated with this report. However, should Council give direction to implement the option involving the assumption of the Shirley Drive Laneway, staff will need to report back to Council with any financial and staffing implications based on the direction received from Council in order to establish appropriate operating and capital budgets prior to assumption.

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### **Relationship to Council’s Strategic Priorities 2020-2022:**

The discussion in this staff report about the transfer of Shirley Drive Rear Laneway from private to public ownership aligns with Council’s Strategic Priority of “Fiscal Responsibility” in determining the most appropriate arrangement for managing laneway infrastructure within the municipality.

### **Climate Change Considerations:**

Climate change considerations are not applicable to this staff report.

### **Conclusion:**

This staff report has been prepared in response to the Member Motion entitled “Report on assumption of the private laneway for freehold townhouses 141-247 Shirley Drive” brought forward by Ward 3 Councilor Liu at the February 23, 2021 Council meeting.

The options for Council’s consideration are summarized below:

#### Status Quo

- Maintain Shared Facilities Agreement governed by the Landowners Committee
- Does not place any additional burden or impacts on homeowners
- Does not require additional land conveyances or planning applications
- Simplest approach, no changes for the property owners
- No additional impacts or risks to the City

#### Convert to Common Element Condominium Ownership

- May require a planning application, legal transactions, and agreement from all landowners
- Cost implications to the homeowners related to administrative fees, preparation of registered plans and condominium documentation
- Requires 100 percent buy in from the homeowners within the Shirley Drive to agree to move forward with formalizing this arrangement
- Homeowners would need to elect a board of directors to oversee the business affairs of the condominium corporation (similar to the obligations set out in the existing shared facilities agreement)
- No additional impacts or risks to the City

#### Municipal Assumption of the Laneway

- 100 percent of the Shirley Drive landowners would need to agree to transfer their respective portion of property that contains the Laneway (expropriation would need to be considered if this does not occur)
- The conveyance of the Laneway Lands to the City would need to be free of cost and without any encumbrances

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- Land transfers reduces the parcel sizes and property boundaries for each townhome which may trigger a requirement for relief from the zoning by-law standards for lot sizes and setbacks
- Costs incurred by the homeowners related to land transfers to the municipality, legal administration and planning application fees
- City would incur unquantifiable operating and capital expenses and liabilities associated with winter maintenance, ongoing repairs, replacement and potential upgrades to the existing infrastructure to bring it up to a municipal standard
- Costs for snow removal will be significantly higher than typical snow removal costs for the City
- Snow removal operations and duration times may not meet the expectations of residents and result in additional complaints
- City exposed to additional risks, liabilities, and claims in the future, given the reduced criteria used for the design and construction of the laneway, unique maintenance needs of the laneway and physical limitations and proximity of garage structures to the laneway
- Could establish a precedent for the City to assume other private laneways

Should Council wish to move forward with the assumption of the Shirley Drive Laneway, Staff recommend that the Landowners Committee have a full condition assessment completed for the Laneway and that all infrastructure be brought up to a reasonable state of good repair prior to assumption. Furthermore, staff recommend that appropriate operating and capital budgets be approved by Council for the ongoing operation, maintenance, repair, and replacement of the Laneway, prior to assumption.

### **Attachments:**

The following attached documents may include scanned images of appendixes, maps and photographs. All attachments have been reviewed and made accessible. If you require an alternative format please call the contact person listed in this document.

- Appendix 1 - Private Laneway Names
- Appendix 2 - Public Laneway Names
- Appendix 3 - SRE.01.112 Shirley Laneway
- Appendix 4 - SRP.96.054 Shirley Private Laneway



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### Report Approval Details

Document Title:	SRPI.22.034 Response to Council Motion Shirley Drive Laneway - stakeholder.docx
Attachments:	- Appendix 1 - Private Laneway Names.docx - Appendix 2 - Public Laneway Name.docx - Appendix 3 - SRE.01.112 Shirley Laneway.pdf - Appendix 4 - SRP.96.054 Shirley Private Laneway.pdf
Final Approval Date:	Jun 8, 2022

This report and all of its attachments were approved and signed as outlined below:

**Dan Terzievski - Jun 7, 2022 - 12:49 PM**

**Paolo Masaro - Jun 7, 2022 - 1:06 PM**

**Antonio Dimilta - Jun 7, 2022 - 1:16 PM**

**Kelvin Kwan - Jun 7, 2022 - 4:39 PM**

**Darlene Joslin - Jun 8, 2022 - 8:47 AM**