



CITY OF HAMILTON

PUBLIC WORKS DEPARTMENT
Operations and Waste Management Division

TO: Chair and Members Public Works Committee	WARD(S) AFFECTED: WARD 11
COMMITTEE DATE: January 16, 2012	
SUBJECT/REPORT NO: Proposed Permanent Closure of Palacebeach Trail - Bridgeport Phase 1 and 3 (PW12002) - (Ward 11)	
SUBMITTED BY: Gerry Davis, CMA General Manager Public Works Department	PREPARED BY: Angela Doyle 905-546-2424, Extension 1332
SIGNATURE:	

RECOMMENDATION

- (a) That the application to permanently close a portion of the road allowance being Palacebeach Trail, part of Block 114 on Plan 62M-1073 being Part 1 on Plan 62R-19174 be approved;
- (b) That the City Solicitor be authorized and directed to prepare a By-law to permanently close the highway;
- (c) That the draft By-law attached as Appendix "A" to Report PW12002 be introduced, read, and passed by Council;
- (d) That the City Solicitor be authorized and directed to register a certified copy of the By-law permanently closing the highway in the proper Land Titles Office;
- (e) That the By-law permanently closing the highway does not take effect until a certified copy of the By-law is registered in the proper Land Titles Office;
- (f) That the one foot reserve, part of Block 114 on Plan 62M-1073, be reconveyed to Homes by Desantis (Meadows) Incorporated.

EXECUTIVE SUMMARY

An application has been made to close a portion of the road allowance that was inadvertently created in subdivision registration of Bridgeport Phase 1 in Stoney Creek.

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A one foot reserve was conveyed in title to the City along the east side of Tidemore Heights and Palacebeach Trail pending the development of Bridgeport Phase 3. The one foot reserve was extended south of the limits of Palacebeach Trail into private property. The portion of the one foot reserve that is adjacent to the road will be removed through the Phase 3 subdivision; however the portion of the road allowance south of Palacebeach Trail must be removed by closing the portion of the one foot reserve.

The owner of the property abutting the one foot reserve of land on either side, Homes by Desantis (Meadows) Inc., has applied to the City for permanent closure of part of the one foot reserve as registered on Reference Plan 62R-19174. The closure and transfer of the land will join the two properties to allow for a continuous property line.

Therefore, the application is to permanently close a portion of road allowance being part of Block 114 on Plan 62M-1073, (Bridgeport Phase 1), and more precisely Part 1 on Plan 62R-19174, as shown on the Location Plan attached as Appendix "B" to Report PW12002.

Operations and Waste Management staff support this application. City staff has developed a By-law to Stop Up and Close a portion of Palacebeach Trail to convey Part 1 on 62R-19174 back to Homes by DeSantis (Meadows) Inc, attached as Appendix "A" to Report PW12002.

Alternatives for Consideration - See Page 3

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: The lands will be transferred to the abutting owner for a nominal fee.

Staffing: The land will be reconveyed to the developer by the Economic Development and Real Estate Division.

Legal: The City Solicitor has prepared a By-law to permanently close the subject lands. The by-law will be registered in the Land Registry Office once Council has approved it.

HISTORICAL BACKGROUND

Schedule I of the Bridgeport Subdivision Agreement required the transfer of the one foot reserve to the City. Block 114 on Plan 62M-1073 was conveyed to the City as a one foot reserve on December 19, 2006 through Instrument No. WE439832. At the time of the transfer, the one foot reserve was inadvertently extended into a portion of Palacebeach Trail. The extension of the one foot reserve impacts two abutting properties, 845 North Service Road and 461 Glover Road, owned by Homes by DeSantis (Meadows) Inc. Development in this area cannot be initiated until this portion of road allowance is closed and conveyed back to Homes by DeSantis (Meadows) Inc.

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Current City practice requires that the City formally close the portion of roadway for the land to be conveyed. The City has no need or intention to incorporate the subject lands into the road allowance.

POLICY IMPLICATIONS

The Planning & Economic Development Department has noted that there are no policy implications related to the permanent closure of the lands. The one foot reserve of land was a small oversight not originally addressed as part of future development plans for the larger area.

The lands must be permanently closed under the Municipal Act before they can be transferred to the abutting property owner.

The closure and sale to the developer will fulfil the priorities established in the Public Works Business Plan within “Communities” as it reflects our desire to “establish mutually beneficial charters with external customers”.

RELEVANT CONSULTATION

The following City staff were consulted and had no negative issues on the closure and sale:

- Ward Councillor
- City Manager’s Office: Legal Services Division
- Hamilton Emergency Services Department: Emergency Services Division
- Planning and Economic Development Department: Building Services Division, Development Engineering Division, Economic Development and Real Estate Division, and Planning Division
- Public Works Department: Environment and Sustainable Infrastructure Division

ANALYSIS / RATIONALE FOR RECOMMENDATION

The subject lands were never intended to be incorporated into road allowance. The City intended to transfer the one foot reserve of land to the developer as part of future development phases of the larger plan; the transfer of land was unintentionally overlooked. Conveyance of the one foot reserve back to Homes by Desantis (Meadows) Inc, property owner of two abutting properties, will allow for a continuous ownership of the lands that are to be developed.

ALTERNATIVES FOR CONSIDERATION

In general, the City utilizes the one foot reserve for purposes of controlling development, allowing for cost recovery of existing services and providing access. The City may retain the one foot reserve as documented in Schedule I of the Bridgeport Subdivision

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Agreement but this portion would no longer serve any of the intended purposes. The City does not intend to incorporate this land into the road allowance. There are no known benefits to the City retaining the one foot reserve. Retention of the one foot reserve would result in an inconsistent road allowance for the City and could result in maintenance issues.

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

Healthy Community

- ♦ Plan and manage the built environment

APPENDICES / SCHEDULES

Appendix "A" - By-law
Appendix "B" - Location Plan

APPENDIX "A"
PW12002

Authority: Item _____, Public Works
Committee Report 12-_____
CM: January 16, 2012
Bill No. _____

CITY OF HAMILTON

BY-LAW NO. 12-

**Being a By-law to Permanently Close a Portion of Palacebeach Trail,
being part of Block 114 on Plan 62M-1073, (Bridgeport Phase 1),
Part 1 on Plan 62R-19174, City of Hamilton**

WHEREAS the Council of the City of Hamilton is empowered under Sections 10(2) and 34 of the *Municipal Act, 2001*, S.O. 2001, c.25 as amended, to permanently close any highway or part of a highway;

AND WHEREAS the Council of the City of Hamilton on January __, 2012, in adopting Item __ of the Public Works Committee Report 12-____, authorized the closure of that portion of Palacebeach Trail, being part of Block 114 on Plan 62M-1073, (Bridgeport Phase 1), being Part 1 on Plan 62R-19174, City of Hamilton;

AND WHEREAS the road is a highway under the jurisdiction of the City of Hamilton;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That the part of the road allowance, being Palacebeach Trail, Hamilton, set out as:

part of Block 114 on Plan 62M-1073 (Bridgeport Phase 1), being Part 1 on Plan 62R19174, City of Hamilton;

is hereby permanently closed.
2. That the soil and freehold of part of Block 114 on Plan 62M-1073 (Bridgeport Phase 1), being Part 1 on Plan 62R-19174; City of Hamilton, hereby permanently closed, be transferred to Homes by Desantis (Meadows) Inc. for nominal consideration pursuant to plan of subdivision approval.
3. That this by-law shall come into force and effect on the date of its registration in the Land Registry Office for the Land Titles Division of Wentworth (No. 62).

PASSED AND ENACTED on this _____ day of January, 2012.

R. Bratina
Mayor

Rose Caterini
City Clerk

