



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Operations Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	June 5, 2017
SUBJECT/REPORT NO:	Retaining Walls on Guildwood Drive (PW17038) (Ward 8) (Outstanding Business List Item)
WARD(S) AFFECTED:	Ward 8
PREPARED BY:	Betty Matthews-Malone, P. Eng. 905-546-2424, Extension 4622
SUBMITTED BY:	Betty Matthews-Malone, P. Eng. Director, Operations Division Public Works Department
SIGNATURE:	

RECOMMENDATION

- (a) That no action be taken to establish a non-repayable grant program for the funding of repairs and/or replacements of retaining walls located on private properties on Guildwood Drive;
- (b) That the outstanding business list item referring to Retaining Walls on Guildwood Drive be removed.

EXECUTIVE SUMMARY

The following abridged motion directed staff to investigate the possibility of grant funding for replacement of private retaining walls on Guildwood Drive:

WHEREAS, the City of Hamilton approved the materials and design work for the retaining walls along Guildwood Drive, Hamilton;

WHEREAS, the retaining wall along Guildwood Drive is crumbling; preventing residents from safely spending time in their backyards; and,

WHEREAS, the replacement of these walls has become cost prohibitive to the homeowners;

BE IT RESOLVED, that staff be directed to review the feasibility of providing a one-time grant to offset the substantive costs of repairing the retaining wall along Guildwood Drive, Hamilton, to home owners and report back.

Previous inquiries for assistance with the repair of private retaining walls have been received for this neighbourhood, specifically Firenze Drive and Green Cedar Drive, as well as other locations across the City. Historically, non-repayable one-time grants have not been provided.

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It is therefore recommended that no action be taken relative to establishing a non-repayable, one-time grant program for the repair and/or replacement of the Guildwood Drive private retaining walls.

Alternatives for Consideration – See Page 4

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: City of Hamilton By-law No. 78-113, being a By-law to provide for “The Making of Loans for Repairs to Registered Owners-Occupants”, provides for discretionary loans of up to \$20,000 to be advanced to cover the cost of repairs of retaining walls ordered to be repaired by the City under the Property Standards By-law. The availability of the loans under this By-law is conditional on availability of funds allocated for that purpose by Council from time to time. There is no existing budget to provide loans under this By-law.

The inventory of private retaining walls is not readily available and Staff estimates that there are approximately 135 possible affected properties along Guildwood Drive and 425 affected properties within the neighbourhood that includes Guildwood Drive. Assuming a non-repayable, one-time grant program matching the \$20,000 loan cap, if all the retaining walls along Guildwood Drive and abutting properties were found to be non-compliant with the City’s Property Standards By-law, an estimated budget of \$2,700,000 could be required to provide said grants. From a neighbourhood perspective, the estimated budget requirements could rise to \$8,500,000.

Staffing: Not applicable.

Legal: The City of Hamilton does not have a legal obligation to keep retaining walls located on private properties in repair.

City of Hamilton Property Standards By-law No. 10-221 imposes an obligation on property owners to maintain their properties in conformity with the By-law. This includes a requirement to maintain retaining walls in repair so as to properly perform their intended function. The City may issue an Order to Comply where it finds a retaining wall in a state of disrepair.

If any inspections conducted by the City of Hamilton on Guildwood Drive reveal retaining walls that are not in compliance with the requirements of the Property Standards By-law, the retaining walls will have to be repaired by the property owners pursuant to that By-law irrespective of the availability of any non-repayable grants or loans for that purpose.

HISTORICAL BACKGROUND

In 1994 the City responded to a similar request for assistance on Firenze Street, a street proximate to Guildwood Drive in the Gurnett neighbourhood. It was confirmed that the City had no legal responsibility for the ongoing maintenance or repair of private retaining walls.

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The estimated reconstruction cost for the 280 linear metres of the Firenze Street retaining wall ranged from \$770,000 to \$1,520,000 in 1994 dollars. It was also estimated that there were 15.7km of private retaining walls within the City. The replacement cost for those walls was estimated between \$42,000,000 and \$80,000,000; approximately \$60,000,000 to \$115,000,000 in today's dollars. This estimate excludes any additions to that inventory.

In 1995, City Council amended By-law 78-113, to specifically address and provide for discretionary loans of up to \$20,000. These loans were to be advanced, subject to conditions set out in the By-law, to assist in covering the cost of repairs of private retaining walls ordered to be repaired by the City under the Property Standards By-law. Council further established a \$120,000 budget for the replacement of existing retaining walls on Green Cedar Drive (homes #78-106) and Firenze Street (homes #67-91). The loans were financed from the then Hamilton Rehabilitation Loan Program fund and all works were required to be completed by September 1, 1996. It is unknown how many of the possible fifty-two (52) homeowners requested or were granted loans.

There was a recommendation to consider extending the loan program until 1997; however, it does not appear that there was an extension. There is no existing budget allocated to the retaining wall loan program under By-law 78-113.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

City of Hamilton Property Standards By-law No. 10-221 imposes an obligation on property owners to maintain their properties in conformity with the By-law. This includes a requirement to maintain retaining walls in repair so as to properly perform their intended function.

RELEVANT CONSULTATION

Previous reports regarding the Almas Gardens and Gurnett Neighbourhood retaining walls have been reviewed in preparation of this report. Asset Management, Planning and Economic Development, Finance, Risk Management, Legal Services and Building staff have been consulted in the preparation of this report.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The City's State of the Infrastructure report provides that there are 381 public retaining walls throughout the City with an estimated replacement value of \$43,000,000. The life expectancy of those retaining walls is 25 to 30 years. The 2017 capital budget includes an allocation of \$700,000 for repairs to public retaining walls. It does not include a budgetary allocation for private retaining walls.

The private retaining walls within the backyards of Guildwood Drive were constructed in compliance with the development standards applicable at the time of their construction. The majority of retaining walls within this neighbourhood are located between private backyards. Access to these retaining walls would be through private property and financial assistance would be required not only for retaining wall repair and/or

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replacement but also for restoration of access routes. This would include repair to damage of fences, storage sheds and landscaping.

During introduction of the initiating motion a question was asked about the City's current Development Standards. Retaining walls are generally not considered acceptable as a first course of action. For lands with adjoining properties, grades are required to meet existing or proposed elevations with sodded slopes (minimum 4:1 slope) and/or retaining walls as specified. Where retaining walls are required, they must be placed a minimum of 0.45m inside the property line to establish clear ownership. The general preference is to locate the retaining wall on the lot on the higher side. Design standards and requirements are defined and warning clauses and restrictions are required in the Development Agreements.

ALTERNATIVES FOR CONSIDERATION

In 1995 The City of Hamilton passed By-law 78-113, being the By-law for "The Making of Loans for Repairs to Registered Owners-Occupants". This By-law established a loan program for the replacement of existing private retaining walls. In 1995 the City approved a budgetary allocation of \$120,000 for the replacement of existing, deficient retaining walls on Green Cedar Drive and Firenze Street. While the By-law has never been repealed, the availability of the loans under the By-law is conditional on the availability of funds allocated for that purpose by Council from time to time. There is no existing budget to provide loans under this By-law.

Staff, including Municipal Law Enforcement and Finance and Corporate Services, could be directed to assess the condition of retaining walls on private properties on Guildwood Drive and report back with a recommendation respecting a possible retaining wall loan program for Guildwood Drive properties and/or other homes within the neighbourhood and/or the City as a whole.

As an alternative to By-law 78-113, Sections 107 and 443 of the *Municipal Act, 2001*, also gives municipalities the power to make loans, charge interest on the loans, and where a municipality makes a loan to any person to pay for the whole or any part of the cost for the person to comply with a by-law (which would include the Property Standards By-law), the municipality may add the amount of the loan together with interest to the tax roll and collect in the same manner as municipal taxes over a period of years determined by the municipality that gave the loan. It should be noted that significant staff resources and funding would be required to establish and administer a residential loan program for private retaining wall repair/replacement.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Healthy and Safe Communities

Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.

APPENDICES AND SCHEDULES ATTACHED

N/A

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