SUBJECT: Proposed Closure and Sale - Portion of Road Allowance - Blagden Road, Flamborough (PW06070) - (Ward 15)

RECOMMENDATION:
That the application of the registered owner of 15 Blagden Road, Carlisle to permanently close and purchase a portion of the road allowance of Blagden Road, be approved, subject to the following:

(a) That the City Solicitor be authorized and directed to prepare a By-law to permanently close the highway.

(b) That the appropriate By-law be introduced and enacted by Council.

(c) That the Real Estate Section, Planning and Economic Development Department, be authorized to sell the closed highway to the applicant at fair market value and in accordance with the Procedural By-law for the Sale of Land, By-law No. 04-299.

(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 Registry 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 Registry Office.

Scott Stewart, C.E.T.
General Manager
Public Works
SUBJECT: Proposed Closure and Sale - Portion of Road Allowance - Blagden Road, Flamborough (PW06070) - (Ward 15) - Page 2 of 3

EXECUTIVE SUMMARY:
An application was received from the owner of 15 Blagden Road in Carlisle to close and purchase a portion of road allowance from the end of Blagden Road to the creek. The applicant purchased the subject property and subsequently discovered that the well servicing the property is located within the road allowance. The request is to close and purchase a portion of the road allowance to allow the well to be located on private property. An abutting owner at 1389 Progreston Road has expressed concerns that selling the road allowance to the applicant would eliminate access to the west end of their property. However, the property has an existing access from Progreston Road. As well, Conservation Halton advises that they would not support an application for an access at the west end of the property. Therefore, this Department supports the request of the owner of 15 Blagden Road to close and purchase the road allowance.

BACKGROUND:
The information/recommendations contained within this report primarily affect Ward 15. The owner 15 Blagden Road in Carlisle has applied to permanently close and purchase a portion of the road allowance of Blagden Road. The applicant’s well is located within the subject lands and the proposal is to have the well situated on private property. Notice was circulated to municipal departments and public utilities and no negative comments were received. Notice was circulated to a 400’ radius of the neighbourhood and the results are as follows:
Number Circulated: 21
In favour: 1   Opposed: 1   No comment: 19
The person opposed owns a property at 1389 Progreston Road, abutting the subject road allowance, which has an access from Progreston Road. The reason for the opposition is that the only access to the west end of the property on both sides of the creek would be denied in the future if the road closure is approved. However, Conservation Halton advises that an access would not be permitted at that location under the Authority’s current guidelines regarding watercourses.
As the applicant currently maintains this road allowance and as no municipal departments or public utilities have submitted negative comments, this Department supports the request.

ANALYSIS/RATIONALE:
There was no environmental assessment required for this location. Notice was circulated for comment to Conservation Halton, municipal departments, public utilities and a 400’ radius of the neighbourhood.

ALTERNATIVES FOR CONSIDERATION:
The road allowance could remain open however the City would not receive the proceeds from the sale of the lands and associated increase to the tax base.
FINANCIAL/STAFFING/LEGAL IMPLICATIONS:
The lands will be transferred at fair market value, as determined by the Real Estate Section and the monies will be used for future land purchases.

POLICIES AFFECTING PROPOSAL:
The lands must be closed by By-law before they can be sold.

RELEVANT CONSULTATION:
Conservation Halton has provided a detailed letter regarding the Authority’s policies pertaining to watercourses. Specifically, they have detailed the reasons why any application for an access through these lands in the future would be denied. The Ward Councillor has been consulted and supports this report being brought forward for consideration.

CITY STRATEGIC COMMITMENT:
By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

- Community Well-Being is enhanced. □ Yes ☑ No
- Environmental Well-Being is enhanced. □ Yes ☑ No
- Economic Well-Being is enhanced. ☑ Yes □ No

The lands will be transferred at fair market value into the City account for future land purchases.

Does the option you are recommending create value across all three bottom lines?
□ Yes ☑ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants?
□ Yes ☑ No
LOCATION PLAN

PROPOSED ROAD ALLOWANCE CLOSURE ADJACENT TO 15 BLAGDEN ROAD

CITY OF HAMILTON PUBLIC WORKS DEPARTMENT

LEGEND

SUBJECT LAND

APPROXIMATE LOCATION OF ROAD IN PUBLIC RIGHT-OF-WAY

SCALE

DATE

NOT TO SCALE  2006-05-30

REFERENCE FILE NO: PW06070
From: Preston, Marilyn
Sent: May 19, 2006 11:02 AM
To: Clark, Nancy
Subject: FW: 15 Blagden Rd & Unopened Road Allowance, East Flamborough

-----Original Message-----
From: Jane Devito [mailto:jdevito@hrca.on.ca]
Sent: Wednesday, May 03, 2006 9:53 AM
To: Preston, Marilyn
Subject: 15 Blagden Rd & Unopened Road Allowance, East Flamborough

Hello Marilyn,

In response to your request pertaining to the construction of a private access road associated with the sale of an unopened road allowance, please find the staff memo as attached.

Regards,

Jane I. De Vito
Environmental Planner
Watershed Management Services
Conservation Halton
2596 Britannia Road West
R.R.# 2 Milton, ON L9T 2X6
Tel: (905)336-1158 x235
Fax: (905) 336-7014
Email: jdevito@hrca.on.ca
Website: www.conservationhalton.on.ca
Memorandum

To: Marilyn Preston, City of Hamilton

From: Jane De Vito, Environmental Planner

Date: May 3, 2006

Re: 15 Blagden Road & Unopened Road Allowance, East Flamborough

Staff of Conservation Halton have reviewed the use of the unopened road allowance on Lot 5, Concession VIII, East Flamborough as it would pertain to the Authority’s policies, as approved April 27, 2006. The ‘Policies and Guidelines for the Administration of Ontario Regulation 97/04 and Land Use Planning Document, pertaining to Watercourses’ were reviewed as they may impact the construction of a private access road on the existing unopened road allowance from Progreston Road to access various lands, including 1389 Progreston Road. It is staffs’ understanding that the private road may partially occur on that portion of the unopened road allowance, known as Blagden Road, and would continue generally northerly through the Regional Storm Floodplain and major valley of the Bronte Creek to the tablelands above the valley.

Based on the above, staff are of the opinion that, with regards to construction of a private access road from Progreston Road to the top of the Bronte Creek valley, this development could not be supported by staff as it would be contrary to the following policies:

Guiding Policies

3.1 Watercourses, Valleylands, Hazardous Lands, Wetlands and Shorelines

Except where allowed under Policies 3.4-3.53 (inclusive), development is Prohibited within a watercourse, valleyland, hazardous lands, wetlands and Lands adjacent or close to the shoreline of the Great Lakes-St. Lawrence river System or to inland lakes that may be affected by flooding, erosion or dynamic beaches.

General Policies

Policies 3.4 to 3.18 are general policies. All works permitted in Specific Policies 3.19-3.53 must also meet the requirements of the general policies unless specifically exempted.

3.10 Conservation of Land and Pollution
Where development is proposed within an area regulated pursuant to Ontario Regulation 97/04, it will be assessed based on whether the development will affect the conservation of land and/or pollution. Applications will be assessed to ensure no adverse environmental impacts to proposed development. A net Environment benefit will be encouraged. In addition, applications will be reviewed or other contaminant to be generated by the development.

Staff note that Specific Policy Policy 3.20 addresses ‘Private Access Roads-Watercourse & Flood Plain Crossings, would not permit the works, since the above-noted General Policy 3.10 and Guiding Policy 3.1 can not be satisfied.

In addition, the Provincial Policy Statement would not permit the works if approvals are required under the Planning Act.

The majority of 1389 Progreston Road is regulated by Conservation Halton and a permit would be required for any development, which may also be dependent on the construction of the aforementioned private access road. Staff have not reviewed a permit application for these lands to date.

We hope this is of assistance.