**CITY OF HAMILTON**

**PUBLIC WORKS DEPARTMENT**  
*Operations & Waste Management Division*

| TO:          | Chair and Members  
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<td>Public Works Committee</td>
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<td>WARD(S) AFFECTED:</td>
<td>WARD 12</td>
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<td>COMMITTEE DATE:</td>
<td>October 4, 2010</td>
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<td>SUBJECT/REPORT NO:</td>
<td>Proposed Closure of a Public Walkway Abutting Liam Drive, Ancaster (PW10094) - (Ward 12)</td>
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| SUBMITTED BY: | Gerry Davis, CMA  
|              | General Manager,  
|              | Public Works Department |
| PREPARED BY:  | Marilyn Preston  
|              | (905) 546-2424, Extension 4298 |

**RECOMMENDATION**

That the application to permanently close and transfer the public walkway abutting Liam Drive, Ancaster, to the adjoining owners of 64 and 66 Liam Drive be approved, subject to the following conditions:

(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 Economic Development and Real Estate Division of the Planning and Economic Development Department be authorized and directed to sell this closed highway 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;
That the Public Works Department publish a notice pursuant to Section 34 of the Municipal Act 2001, S.O. 2001, c. 25, as amended, of the City’s intention to pass the by-law.

**EXECUTIVE SUMMARY**

The City intends to permanently close a portion of the road allowance being Block 103 on Plan 62M-800 in the Malatesta Gardens Subdivision, as shown on the Location Plan attached as Appendix “A” to Report PW10094. The subject lands were acquired by the City for the purpose of establishing a temporary walkway in accordance with the Subdivision Agreement for Malatesta Gardens (#25T-200205, plan 62M-1018). A condition of the approval of the Agreement was the removal and transfer to private ownership of a public walkway abutting Liam Drive in Ancaster.

To fulfil this requirement the developer has applied to have the lands permanently closed and sold to the abutting owners at 64 and 66 Liam Drive. As the walkway has physically been removed and replaced with sod and as all associated costs will be the responsibility of the developer, Operations and Waste Management staff support this application.

**Alternatives for Consideration – See page 3**

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS**

**Financial:** The Subdivider has paid a user fee of $2,541.52 for processing the closure. The lands will be transferred to the abutting owners for one dollar as is the City’s policy for the sale of public walkways abutting residential properties.

**Staffing:** An agreement to purchase the subject lands will be negotiated by the Economic Development and Real Estate Division.

**Legal:** The City Solicitor will prepare 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. The permanent closure and transfer of the lands fulfills the City’s contractual obligations under the Subdivision Agreement.

**HISTORICAL BACKGROUND**

As a condition of subdivision approval, the developer of Malatesta Gardens was required to remove a public walkway abutting Liam Drive in Ancaster. The lands had previously been owned by the School Board and intended to facilitate a walkway to a proposed school in the area. The plans for the school changed resulting in no requirement for the walkway. Subsequently, the Board sold the subject lands to the developer of Malatesta Gardens. The Malatesta Gardens subdivision agreement states that the lands are to be permanently closed and transferred to the abutting owners at the expense of the Subdivider. Therefore, an application was submitted by the developer to permanently close the walkway and transfer the lands to the appropriate private ownership. Currently, the land is a grassed area and is being utilized by the two abutting properties as a side yard.

**POLICY IMPLICATIONS**

The lands must be permanently closed under the Municipal Act before they can be transferred to the abutting property owners.
The closure and sale to the developer will fulfill the priorities established in the Public Works Business Plan within “Communities” as it 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:

- Planning and Economic Development Department: Development Engineering Division
- Public Works Department: Environment and Sustainable Infrastructure Division

Pursuant to the Public Notice by-law, no public notice is required in this situation. No environmental assessment is required for the closure.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

The subject lands were established for the purpose of providing temporary access during early phases of construction of the subdivision. The permanent closure and transfer of the lands to the abutting owners at 64 and 66 Liam Drive is a requirement of subdivision approval.

**ALTERNATIVES FOR CONSIDERATION**

As the permanent closure of the walkway and transfer to the abutting owners is a condition of the Subdivision Agreement, there are no alternatives for consideration.

**CORPORATE STRATEGIC PLAN**


*Healthy Community*

- Plan and manage the built environment

**APPENDICES / SCHEDULES**

Appendix “A” - Location Plan
Appendix “B” - Drawing of Subject Lands and Proposed Residential Walkway Closure
LOCATION PLAN

PROPOSED CLOSURE OF PUBLIC WALKWAY

64 & 66 LIAM DRIVE
ANCASTER, ON

LEGEND

- To be transferred to 68 Liam Dr.
- To be transferred to 64 Liam Dr.

DATE: August 31, 2010
Not to Scale

REFERENCE FILE NO.: PW10