



**Subject: Stop Up and Close By-law for Hillcrest Road Temporary Turning Circle**

**To: Council**

**From: Development and Legislative Services Department**

Report Number: 2023-58

Meeting Date: March 28, 2023

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### **Recommendation:**

That Development and Legislative Services Department – Planning Division Report 2023-58 be received; and

That Council waive the notification requirements for the stopping up and closing of a public highway as established in Schedule “A” of By-law 4339/12/03; and

That the Stop Up and Close By-law attached as Appendix A of Development and Legislative Services Report 2023-58 for the Hillcrest Road temporary turning circle be approved.

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### **Purpose:**

The purpose of this report is to seek Council’s approval of a Stop Up and Close By-law for the Hillcrest Road temporary turning circle within the existing Meadow Heights subdivision. This report comes in response to an urgent request by the City Solicitor to close the turning circle as a public highway, to permit the transfer of the lands to the abutting properties, as required by the subdivision agreement.

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### **Background:**

The Meadow Heights Plan of Subdivision is located in the northwest of the City, bounded by the Barrick Heights Subdivision to the south, Elm Street to the east, the Loyalist Industrial Park to the north and the Rosedale Draft Plan of Subdivision and Hawthorne Heights to the west.

The Meadow Heights Plan of Subdivision, registered in 1991, allows for a mixture of single-detached lots of varying size, semi-detached and townhouse dwelling units. The plan first was approved for 413 dwelling units (267 single detached dwellings, 94 semi-detached units; and 52 townhouse units). In 1994, the plan was amended to allow for an additional eight dwelling units.

The subdivision agreement permitted development in four phases; the first phase consisting of 240 dwelling units.

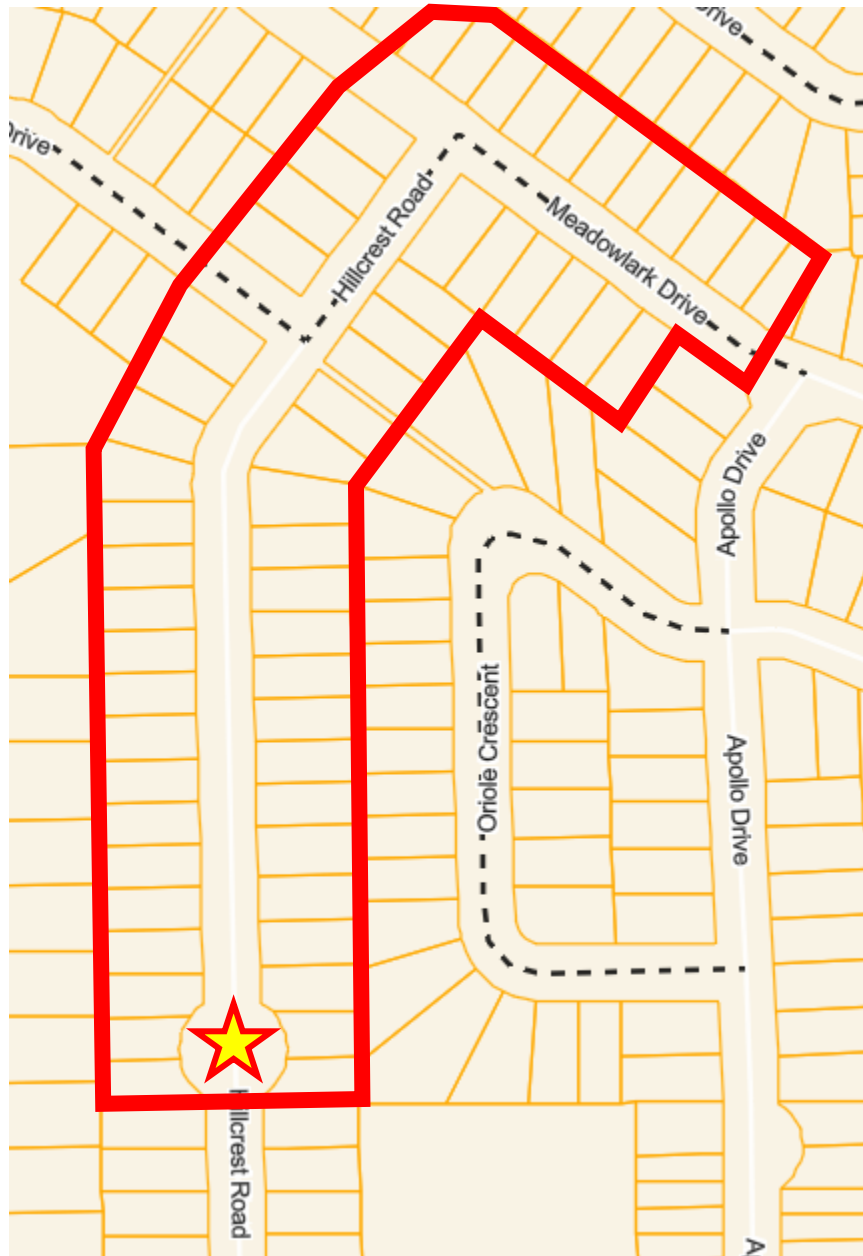
In 2000, Kingsway Investment Ltd. (1399908 Ontario Inc.) purchased the subdivision land and made amendments to the subdivision agreement to recognize new ownership/mortgagee, revision of Phase 1 and acknowledgement that development charges have been paid in full.

On November 27, 2017, Council approved an amendment to the Meadow Heights Subdivision through By-law 6536/103/17. The approval allowed for the refinement of Phase 2 to be developed in two stages. Stage 1 was for 26 lots and Stage 2 for 52 lots.

At its December 14, 2020 meeting, City Council approved an amending agreement for the 26 lots in Stage 1 mentioned above. Stage 1 is known as Oriole Crescent.

On May 24, 2022, City Council approved an amending agreement for the 52 lots located in Stage 2. Stage 2 is known as the Hillcrest Road and Meadowlark Drive extension.

A keymap has been provided below to show the general location of Stage 2 (red outline), and more specifically the temporary turning circle (yellow star) in which this report pertains.



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## Discussion:

As referenced above, this report comes in response to an urgent request by the City Solicitor to stop up and close the temporary turning circle on Hillcrest Road to permit the transfer of the lands to the abutting properties. Through the process of the land sale of the lots within Stage 2, it was discovered by the buyer's lawyer that the lands that encompass the Hillcrest Road temporary turning circle have yet to be transferred to the abutting properties, in accordance with the subdivision agreement. In reviewing the applicable transfer documents, it was discovered by the buyer's and the City's lawyer that the lands meant to be transferred, were dedicated by the City as a public highway

in 2011 through By-law 5730/161/11. Therefore, in order for the lands to be transferred in accordance with the subdivision agreement, the stopping up and closing of the applicable lands is required. The lands subject to the proposed stop up and close by-law are known as Parts 1-18 on Plan 59R-14458 and are highlighted in Appendix B.

In 2003, City Council passed By-law 4339/12/03 under Section 251 of the *Municipal Act* (the “Act”) to establish a procedure for notice for the closing of a public highway. The By-law requires a public meeting to be held, and notification for said meeting to be published once a week for four consecutive weeks in the newspaper. Since the by-law’s passing in 2003, Section 251 of the Act was repealed. Additionally, Section 34(1) of the Act which previously stated: “Before passing a by-law for permanently closing a highway, a municipality shall give public notice of its intention to pass the by-law”, was repealed in 2007, removing the requirement for public notice for closing a public highway.

Staff has reviewed and discussed the above-mentioned by-law with the City Solicitor and are of the opinion that given the context of the lands subject to the turning circle, the nature of the closure, and the amendments to the Act, it would be appropriate for Council to use its authority to waive the typical procedural requirements referenced in the by-law to accommodate this urgent request. Should Council decide to follow the established notification procedure, a significant amount of time will be added to this process, causing unnecessary delays to the transfer and subsequent development of the lands, in accordance with the approved subdivision agreement.

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### **Internal Consultations:**

Planning staff have worked closely with the City Solicitor to respond to this urgent issue. The By-law attached as Appendix A has been vetted, and the solicitor opines that it is appropriate to waive the procedural notification requirements.

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### **Financial Implications:**

As referenced previously, Council has the authority to waive the procedural notification requirements established through By-law 4339/12/03, which will save a substantial amount of staff and legal time for the municipality, as well as avoid unnecessary delays to the transfer and development of the lands.

Additionally, the waiving of the notification process will save the City money in advertisement fees for the newspaper. Each advertisement is roughly \$1,500. Using that figure across the required four consecutive weeks, the City could be saving approximately \$6,000.

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**Public Engagement:**

Given the context of the turning circle, the lands could only be transferred to the abutting properties. Public input on this land transfer is not expected, nor required in the opinion of staff and the City Solicitor, as this transfer of the temporary turning circle has already been established through the subdivision agreement.

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**Strategic Plan Alignment:**

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Service and Simplicity - Quality and Innovative Delivery of Customer Services
  - Value: Financial Management to Achieve Financial Sustainability
  - People: Supporting and Investing in Human Capital
  - Governance: Communications, Engagement, and Decision-Making
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**Conclusion:**

Staff recommend that Council waive the procedural notification requirements of By-law 4339/12/03 in order to pass the stop up and close By-law attached as Appendix A for the closure of the Hillcrest Road temporary turning circle.

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**Appendices:**

- a. Stop Up and Close By-law – Hillcrest Road Turning Circle
- b. Lands subject to Stop Up and Close By-law

Respectfully submitted,

David Schulz, BURPI, MCIP, RPP  
Senior Planner  
(905) 835-2900 x202  
david.schulz@portcolborne.ca

Respectfully submitted,

Denise Landry, MCIP, RPP  
Chief Planner  
(905) 835-2900 x203  
denise.landry@portcolborne.ca

**Report Approval:**

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.