

**THE CORPORATION OF THE CITY OF WINDSOR  
OFFICE OF THE CITY ENGINEER – Engineering**

**MISSION STATEMENT:**

*"The City of Windsor, with the involvement of its citizens, will deliver effective and responsive municipal services, and will mobilize innovative community partnerships"*

<b>LiveLink REPORT #:</b> 16948 MTR/11200	<b>Report Date:</b> January 08, 2014 (3745 -01/17/14:eb)
<b>Author's Name:</b> Fahd Mikhael	<b>Date to Council:</b> February 03, 2014
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**TO:** Mayor and Members of City Council

**SUBJECT:** Request to close portion of Twin Oaks Drive and Valtec Court to the North and East of Twin Oaks Drive and Valtec Court intersection

**1. RECOMMENDATION:** City Wide:  X  Ward(s): \_\_\_\_\_

- I. That the Street and Alley Closure Policy **BE WAIVED** for the portion of Twin Oaks Drive right-of-way east of Twin Oaks Drive and Valtec Court intersection shown on Drawing No. CC-1649 attached hereto as Appendix A.
- II. That portion of Twin Oaks Drive right-of-way east of Twin Oaks Drive and Valtec Court intersection shown on Drawing No. CC-1649 attached hereto as Appendix A **BE ASSUMED** for subsequent closure and conveyance and further the City Solicitor **BE REQUESTED** to prepare the necessary by-law.
- III. That portion of Twin Oaks Drive right-of-way east of Twin Oaks Drive and Valtec Court intersection shown on Drawing No. CC- 1649 attached hereto as Appendix A **BE CLOSED** and **BE CONVEYED** to CS Wind Canada Inc. at the conveyance price of \$1.00
- IV. That the Street and Alley Closure Policy **BE WAIVED** for the portion of Valtec Court right-of-way north and south of Twin Oaks Drive and Valtec Court intersection shown on Drawing No. CC-1649 attached hereto as Appendix A.
- V. That portion of Valtec Court right-of-way north and south of Twin Oaks Drive and Valtec Court intersection shown on Drawing No. CC-1649 attached hereto as Appendix A **BE ASSUMED** for subsequent closure and conveyance and further the City Solicitor **BE REQUESTED** to prepare the necessary by-law.
- VI. That portion of Valtec Court right-of-way north and south of Twin Oaks Drive and Valtec Court intersection shown on Drawing No. CC- 1649 attached hereto as Appendix A **BE CLOSED** and **BE CONVEYED** to CS Wind Canada Inc. at the conveyance price of \$1.00, and
- VII. That prior to the conveyance of the closed portions of Twin Oaks Drive and Valtec Court to CS Wind Canada the City Solicitor **BE DIRECTED** to reserve the necessary driveway easement(s) in favour of Jamieson Laboratories Ltd. and the necessary utility easements in favour of EnWin Utilities Ltd. (Hydro), Windsor Utilities Commission (Water), Union Gas, Bell Canada and Cogeco Cable Systems

And further:

- i. The City Administration **BE DIRECTED** to execute the necessary agreements as authorized in CR16/2013 prior to conveyance of the closed portions of Twin Oaks Drive and Valtec Court to CS Wind.
- ii. The City Engineer **BE REQUESTED** to supply the appropriate legal descriptions, in accordance with Drawing No. CC-1649, attached hereto as Appendix A.
- iii. The City Planner, or designate, **BE AUTHORIZED** to publish the required legal notice.
- iv. The City Solicitor **BE REQUESTED** to prepare the by-law to close.
- v. The Chief Administrative Officer and City Clerk **BE AUTHORIZED** to sign all necessary documents approved as to form and content satisfactory to the City Solicitor.
- vi. The transaction **BE COMPLETED** electronically pursuant to By-law Number 366-2003 and that the Chief Administrative Officer and the City Clerk **BE AUTHORIZED** to execute all documents necessary to complete the transaction, as required and that the City Solicitor or designate **BE AUTHORIZED** to execute documents standard to a real estate transaction.

**EXECUTIVE SUMMARY:** N/A

**2. BACKGROUND:**

At the Council Meeting of July 22, 2013, Council Resolution CR133/2013 deferred Report #16611 to a future date, to allow Administration to respond to correspondence from the legal representation of a party litigant concerning litigation related to the matter that was the subject of the deferral. It is now possible for the subject of that report to proceed to Council.

As part of CR16/2013 on January 21, 2013, Council approved the following:

- *That Administration **BE AUTHORIZED** to enter into an agreement with CS Wind Canada Inc. to construct a rail spur on CS Wind property. The agreement will address construction access, liability and future ownership responsibility of the rail lines.*
- *That Administration **BE AUTHORIZED** to enter into an agreement or permanent easement with CS Wind Canada Inc. for the rail line (spur) to be constructed on City lands or right-of-way. The agreement shall define CS Wind responsibilities to operate, maintain and be responsible for liability and insurance as a minimum.*

As part of CR11/2013, on January 21, 2013, Council authorized the signing of a Private Siding Construction Agreement with the Canadian Pacific Railway (CPR) regarding the construction of the part of the railway spur line located within CPR's right-of-way at Mile 104.00 of the Windsor Subdivision. As well, CR11/2013 authorized the Chief Administrative Officer to sign a contract with the lowest tenderer to construct the Railway Spur Line from CPR to C.S. Wind Property.

While project related construction is already underway, in order to have the least impact on CS Wind's production scheduling, the actual rail track construction is currently being scheduled to begin in March.

### **3. DISCUSSION:**

The Railway Spur Line, Twin Oaks Extension and Lachance Drain Relocation Corridor Class Environmental Assessment Study was carried out in accordance with the Schedule B requirements under the Municipal Class Environmental Assessment (October 2000, as amended in 2007). A Notice of Completion of the Project File Report was advertised on June 5, 2012 and June 9, 2012 in accordance with the Municipal Class Environmental Assessment process.

A Part II Order request was received by the Minister of the Environment on June 25, 2012. On December 18, 2012, The Minister provided his decision that an individual environmental assessment is not required and that the City may proceed with the Project.

While the relocation of the Lachance Drain and the necessary utility relocations are currently underway, the construction of the extension to Twin Oaks Drive and other associated municipal servicing are being deferred until the road extension is required to serve development within the area.

The agreement covering the railway spur line running through lands already leased to CS Wind, including the portion going through the existing Twin Oaks Drive and Valtec Court, has been structured so that CS Wind will have full responsibility for the rail spur.

The section of Twin Oaks drive east of Valtec Way to the east limit of the lands owned by the city at 9655 Twin Oaks(identified on drawing CC-1649 to be closed) are not required as right of way as it is not required for the future extension of Twin Oaks Drive to the East.

There are three existing property owners, including the City of Windsor, fronting the portion of Twin Oaks Drive and Valtec Court requested to be closed. The other two property owners are Jamieson Laboratories Ltd. and CS Wind Canada Inc. Both property owners were consulted through the environmental assessment study process, and both are aware of the approximate location of the proposed railway track.

The City is presently working on agreements with both Jamieson Laboratories Ltd. and CS Wind Canada Inc. regarding the railway spur line construction issues, properties, easements, maintenance, et cetera. By approving at this time the closing of the requested right-of-way, the construction of the railway spur line will proceed as planned and final agreements with both Jamieson Laboratories Ltd. and CS Wind Canada Inc. may be reached.

In order to expedite the right-of-way closure process the request to close the rights-of-way as contained in the recommendation section is proceeding directly to City Council as opposed to through the Street and Alley Committee. A more rapid closure of the rights-of-way will facilitate finalizing of access and easement agreements for CS Wind, Jamieson Laboratories, the various utility companies, and the City of Windsor

### **4. RISK ANALYSIS:**

The rights-of-way closures and conveyance(s) transfer future maintenance responsibilities to the new owner and primary user (CS Wind). Allowing this section to remain an open right of way presents more risk to the City in terms of future maintenance responsibilities.

This proposed rights-of-way closure(s) is consistent with the Environmental Assessment that identified that Twin Oaks Drive would not extend easterly through the portion to be closed.

**5. FINANCIAL MATTERS:**

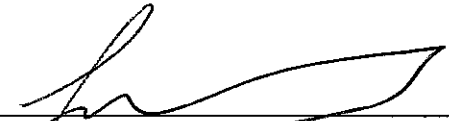
The cost for the closure process is minimal. Any associated costs, estimated at \$5,000.00, will be covered under the railway spur line project.

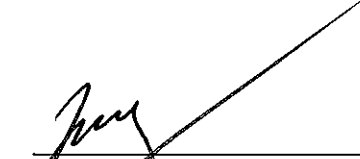
**6. CONSULTATIONS:**


Representatives from Legal, Finance, Planning and The City Engineer's Office were consulted.


**7. CONCLUSION:**

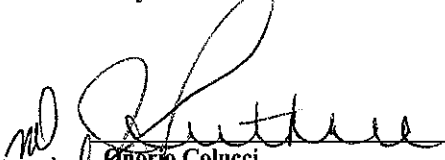
Administration recommends the closure of the requested portion of the Twin Oaks Drive and Valtec Court right-of-ways.


  
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 City Engineer and Corporate Leader Environmental Protection and Transportation

  
 Thom Hunt  
 City Planner / Executive Director

  
 Shelby Askin Hager  
 City Solicitor

  
 Onorio Colucci  
 Chief Financial Officer/City Treasurer and Corporate Leader Finance and Technology  
 FM/bmw:mb

  
 Helga Reider  
 Chief Administrative Officer

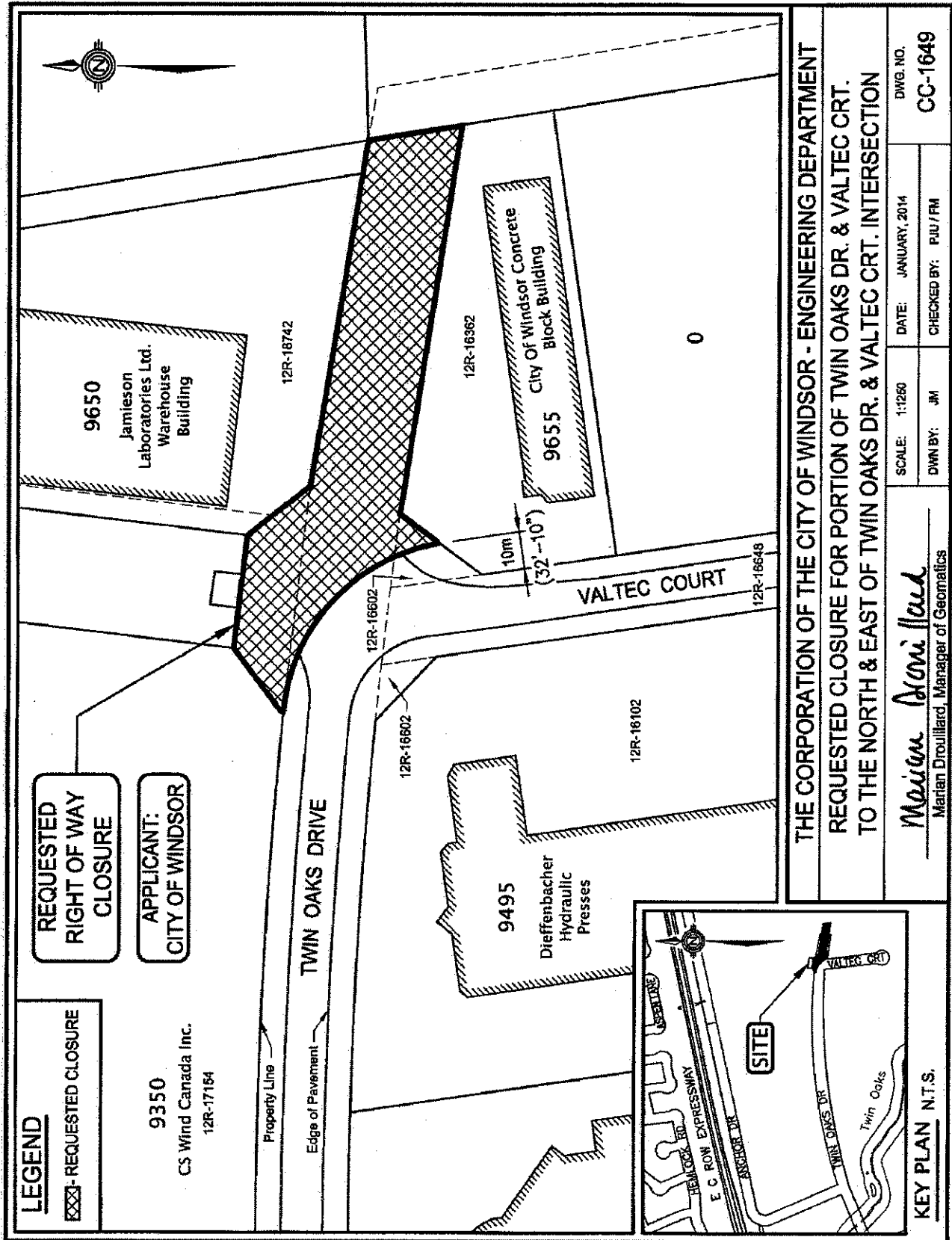
**APPENDICES: Appendix "A" – CC Drawing 1649 Appendix "B" – Figure 4M 150**

**DEPARTMENTS/OTHERS CONSULTED:**  
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**APPENDIX 'A'**

**Request to close portion of Twin Oaks Drive and Valtec Court to the North and East of Twin Oaks Drive and Valtec Court Intersection (Drawing CC-1649)**



APPENDIX 'B'

4M-150

