

Adopted by Council at its meeting held May 8, 2012 [M221-2012]

/AA

Windsor, Ontario May 7, 2012

REPORT NO. 21 of the
PUBLIC SAFETY STANDING COMMITTEE
of its meeting held April 18, 2012

Present:
Councillor Jones, Chair
Councillor Dilkens
Councillor Gignac
Councillor Maghnieh
Councillor Payne

That the following recommendation of the Public Safety Standing Committee **BE APPROVED** as follows:

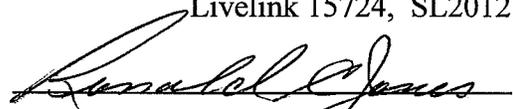
Moved by Councillor Gignac, seconded by Councillor Dilkens

That City Council **RECEIVE** the following report from the Chief Building Official in response to CQ43-2011, CQ63-2011, and Council Resolution M35-2012 (petition); and further, that Administration does not recommend that any by-laws be implemented prohibiting the use of concrete barriers to restrict access to vacant commercial/industrial properties or parking areas, and to take no action to remove the concrete "jersey barriers" noted in the petition.

Carried.

Clerk's Note: The report dated March 7, 2012 entitled "Response to Council Question 43-2011 & 63-2011 and Council Resolution M35-2012 Petition Respecting Utilization of Concrete Barriers (aka Jersey Barriers)" is attached as background information.

Livelihood 15724, SL2012

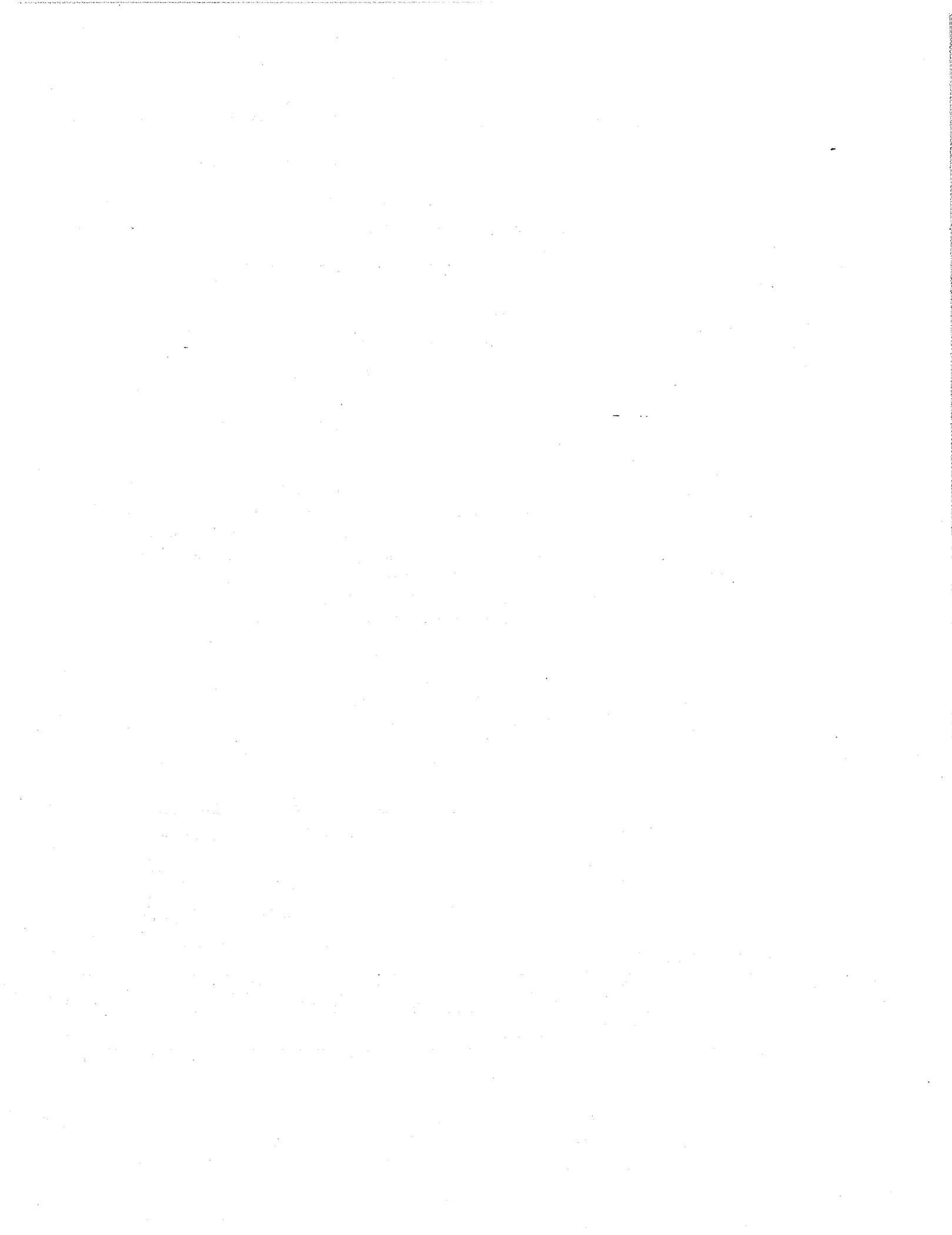


CHAIRPERSON



DEPUTY CITY CLERK

NOTIFICATION :				
Name	Address	Email Address	Telephone	FAX
Dr. Dante Capaldi		drcapaldi@sympatico.ca	519-796-8680	
Marney Beale	1955 Blue Heron Dr. Windsor, ON N8P 1P6		519-739-1071	



THE CORPORATION OF THE CITY OF WINDSOR
Public Safety Standing Committee – Administrative Report

**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"

LiveLink REPORT #: 15724 SL2012	Report Date: March 7, 2012
Author's Name: Rob Vani, Manager of Inspections	Date to Standing Committee: April 18, 2012
Author's Phone: 519 255-6267 ext. 6834	Classification #:
Author's E-mail: rvani@city.windsor.on.ca	

To: Public Safety Standing Committee

Subject: Response to Council Question 43-2011 & 63-2011 and Council Resolution M35-2012 Petition Respecting Utilization of Concrete Barriers (aka Jersey Barriers)

1. RECOMMENDATION: City Wide: _____ Ward(s): 3

That City Council **RECEIVE** the following report from the Chief Building Official in response to CQ43-2011, CQ63-2011, and Council Resolution M35-2012 (petition); and further, that Administration does not recommend that any by-Laws be implemented prohibiting the use of concrete barriers to restrict access to vacant commercial/industrial properties or parking areas, and to take no action to remove the concrete "jersey barriers" noted in the petition.

EXECUTIVE SUMMARY:

N/A

2. BACKGROUND:

At the May 16, 2011 Council meeting Councillor Valentinis, (CQ43-2011) asks, "*is there any prohibition against the "unsightly" concrete bunkers being used as barriers on vacant properties" such as Ouellette & Giles, Goyeau (600 block vacant Tim Hortons) corner of Dougall & West Grand and if not can we have a proposed by-law drafted?"*

At the October 3, 2011 Council Meeting Councillor Hatfield, (CQ63-2011) asks, "*could our Legal and Planning and Building Departments research and report to City Council on by-law options of restricting the use of so-called "Jersey Barriers" – concrete or stone barriers which are often – if not too frequently used in an unsightly manner to block off access to private property in residential and commercial areas within Windsor."*

At the February 6, 2012 Council meeting Councillor Hatfield presented a petition from the residents of the Blue Heron Twin Villas, Kirkland Avenue, Firgrove Drive, Blue Heron Drive, Banwell Road, Leathorne Drive, and Castleton Avenue containing approximately 100 signatures, petitioning the City of Windsor to remove the "jersey barriers" on Leathorne Dr., facing Blue Heron Dr., and Kirkland Ave. The petition was forwarded to the Chief Building Official to conduct an examination of the requested works or undertakings.

The petition requests states:

"Whereas large concrete blocks, commonly known as "jersey barriers", have been installed in our immediate residential neighbourhood without our consent and these ugly eyesores have reflective tape on them, more suitable on a construction site or as dividers along a highway, we are petitioning that they do not belong in a quiet, well-maintained residential neighbourhood. The residents living near these ugly barriers have a concern for property value and feel that these unwanted intrusions may cause others to question the value of living nearby.

These concerns are shared by more than one hundred people living on Blue Heron, Leathorne, Castleton, Firgrove, Kirkland and Banwell. We hereby petition the City of Windsor to do everything in it's[sic] municipal power to have these barriers removed and replaced with either flower boxes, potted trees or some other acceptable containers more suitable to our residential standards. In exchange, we commit to caring for the flowers and/or trees as long as we have to endure barriers in our subdivision."

the subject property is located at the northeast corner of McHugh Street and Banwell Road, and zoned for commercial development. The current owner intends to develop a portion of the lands within the next year. When the current owner purchased the property two years ago, in an effort to prohibit speeding vehicles on this private roadway, he purchased and installed the concrete barriers from the City thereby restricting public access.

3. DISCUSSION:

The Building Department undertook research on the subject matter. Municipalities of similar size across Ontario, including but not limited to London, Hamilton, Oshawa, Mississauga, were polled to determine if they had by-law regulations restricting the use of temporary or permanent concrete barriers used to restrict access to vacant properties. None of those municipalities polled restrict the use of concrete barriers on private property. Only the City of London has language in their zoning by-law addressing obstructions to a parking area.

The following is an excerpt from London's Zoning By-law:

- c) *Each required parking space shall be readily accessible at all times for the parking or removal of a vehicle and vehicular access to any such parking space shall not be impeded by any obstruction except as provided in Paragraph (d) of this Clause, except that this provision shall not apply to prevent the use as a parking space of any part of a driveway accessory to a single dwelling, semi-detached dwelling or townhouse dwelling provided that no parking space parking area on any other lot or of any other unit.*

- d) *Nothing in this By-Law shall prevent the obstruction of a driveway by a gate, a temporary barrier or similar obstruction used solely to restrict access to the said driveway and designed to be easily raised, swung aside or otherwise opened or removed when necessary to permit passage of a vehicle.*

London's barrier regulation only regulates what type of barrier can be used to restrict the access to the parking area, i.e., gates or other types of obstructions that can be easily raised, swung aside or otherwise removed to permit passage of a vehicle into the parking area; the regulation does not restrict the actual perimeter barrier, only the type of barrier at the access point to a parking area. During the research for this report, it became evident that the practice of using concrete barriers to restrict access to properties is a common practice in other municipalities that is not prohibited by law.

In Hamilton, staff confirmed that the *City* has actually required them to be placed on properties; for example, where people have open illegal commercial parking facilities within our downtown where surface lots are prohibited".

Staff from Mississauga confirmed that property owners currently concrete barriers to ensure that the property is secure from possible vandalism or dumping incidents.

The properties giving rise to the Council questions are vacant commercial properties that were closed and put up for sale for redevelopment (1192 Ouellette Ave. has been demolished and is slated for redevelopment in 2012) due to their redundant use. The property owners installed perimeter concrete barriers to prevent unauthorized vehicle access, illegal dumping, and illegal parking on the properties. As well, the barriers reduce damage to the buildings, and reduce the risk of vandalism and arson.

Up to this point in time the owner's actions have been successful, as the subject properties have not been investigated for any illegal parking or dumping activities, nor have they required any recent response by the Fire Department. For these reasons, it is the Building Department's view that concrete barriers are an effective security device for vacant buildings.

Concrete barriers are oftentimes utilized to restrict vehicular access on private roadways leading to private vacant property. Currently, there are no legislative mechanisms for the municipality to enter upon and remove barriers placed on private property or a private roadway/driveway. The City does not have authority to enter private property and remove the concrete barriers without the consent of the owner(s). The owners of these developed or undeveloped lands use concrete barriers for the same reasons previously discussed in this report. Concrete barriers erected on the public right of way (barriers not part of City works projects) are currently enforced under By-Law 25 administered and enforced by the Public Works Departments Administrative Inspectors.

Administration advises that there is no requirement for consultation with the City prior to the installation of concrete barriers on private, vacant lands. Administration has not been provided with any evidence of property values being negatively affected by the placement of jersey barriers on this site. The suggestion by petitioners to remove the concrete barriers and replace them with either flower boxes, potted trees or some other landscape containers more suitable to their residential standards is not within the legislated mandate of the municipality. There is no

legal authority to impose this requirement on the property owner. Likewise, there is no legal authority for the City to force the owners or other entities to maintain the containers. Administration has concerns that such containers will become receptacles for garbage; whereas the property is currently being well maintained, free from garbage, tall grass and weeds.

Legislative Authority:

Property Standards By-law pursuant to the Ontario Building Code Act:

The purpose of this legislation and the by-laws is for the protection of the health and safety of the occupants of the property and those attending on the property. In addition the protection is for the benefit of the general public. The issue of "Unsightly" gets into aesthetics, and that is not the thrust or purpose of property standards legislation; therefore dealing with concrete barriers in the Property Standards By-Law is not within the framework of this legislation.

Municipal Act Section 8 and 10:

The City does have broad powers under the Municipal Act to pass various by-laws; Sections 8 and 10 of the Municipal Act indicates this broad range as follows:

Scope of powers

- S. 8. (1) *The powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues.*
- S. 10. (1) *A single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public.*

By-laws

S.10 (2) A single-tier municipality may pass by-laws respecting the following matters:

5. Economic, **social and environmental well-being** of the municipality.
6. Health, safety and **well-being of persons.**
10. **Structures**, including fences and signs.

Although the Municipal Act would allow the municipality to pass a by-law to restrict the use of concrete barriers, our research found that other municipalities do not use the Municipal Act to enact such by-laws. In fact, the practice of installing temporary concrete barriers to protect property is a common practice throughout the Province; one that has been used with success to deter vandalism, illegal parking/trespassing and dumping. That has also been our experience in Windsor.

4. RISK ANALYSIS:

Not implementing any by-law prohibiting the installation and maintaining of concrete barriers on private property brings no increased risk to the City.

5. FINANCIAL MATTERS:

N/A

6. CONSULTATIONS:

Al Peach, Manager of Inspections, Lee Anne Doyle, CBO, Building Department
Marc Mantha, Karl Muegge & Gary Trepanier, Building Inspectors
Michael Cooke, Mgr of Planning Policy, Planning Department
Lee Tome, Chief Prevention Officer, Windsor Fire Department
Barry Horrobin, Planner, Windsor Police Services
Tony Ruffolo, Office Technologist, Public Works Department
John Miceli, Executive Director, Parks & Facilities
Other Municipalities: London, Oshawa, Hamilton, Mississauga

7. CONCLUSION:

Administration is aware of four high profile properties in the City that are incorporating the use of concrete barriers to restrict unauthorized access to their properties. The former Tim Hortons building at 1192 Ouellette Avenue was recently demolished and is projected for redevelopment in 2012, one at 3001 Dougall Ave. where the new owner is investigating redevelopment opportunities and has applied for a demolition permit. The former Petro Canada Gas Station building at 10145 Tecumseh Rd. East was recently cleared from the property and we have no information on any future development plans. The Building Department has not received any complaints with respect to the use of the concrete barriers at these sites.

The concrete barriers erected at each end of the private roadway between Leathorne Drive and McNorton Street reside on a **private roadway** built for access to a future private commercial development. Due to poor economic conditions resulting in the postponement of development, the owner chose to block the private roadway to reduce trespassing, illegal dumping etc. until such time as the site is ready for development. Recent information from the developer revealed that they are close to an agreement to develop four acres of the property.

Enacting a by-law prohibiting the use of concrete barriers to restrict entry to private property may be counterproductive; as property owners are forced to seek other less desirable barriers/enclosures to protect their properties. Furthermore, the absence of barriers altogether will leave the property vulnerable to trespassing, and illegal activities such as unauthorized

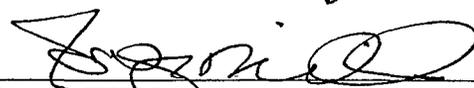
vehicle access, illegal dumping, and illegal parking on these and other vacant properties. Such illegal activities will undoubtedly bring with it an increase of complaints, and an increase demand for enforcement response by the Building Department staff.



Roberto Vani
Manager of Inspections



Lee Anne Doyle
Executive Director/Chief Building Official



George Wilkki
City Solicitor and Corporate Leader
Economic Development and Public Safety

RV: lh

APPENDICES
Petition

DEPARTMENTS/OTHERS CONSULTED:
 Name: Wira Vendrasco, Senior Legal Counsel
 Michael Cooke, Manager of Planning Policy, Planning Department
 Lee Tome, Chief Prevention Officer, Windsor Fire and Rescue Department
 Barry Horrobin, Director of Planning and Physical Resources, Windsor Police Services
 Tony Ruffolo, Office Technologist, Office of the City Engineer
 John Miceli, Executive Director of Parks & Facilities

NOTIFICATION :				
Name	Address	Email Address	Telephone	FAX
Dr. Dante Capaldi		drcapaldi@sympatico.ca	# 519-796-8680	
Marney Beale	1955 Blue Heron Dr. Windsor, On N8P 1P6		519-739-1071	



THE CITY OF WINDSOR

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"

**COUNCIL SERVICES/CITY CLERK
CITY HALL
WINDSOR, ONTARIO
N9A 6S1**

Phone: (519)255-6211

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WEBSITE: www.citywindsor.ca

NOTICE OF COUNCIL DECISION

Windsor City Council adopted the following resolution at its meeting held February 6, 2012

Moved by Councillor Dilkens, seconded by Councillor Gignac,
M35-2011 That the petition presented by Councillor Hatfield from the residents of the Blue Heron Twin Villas, petitioning the City of Windsor to remove the "jersey barriers" on Leathorne Dr. and facing Blue Heron Dr. and Kirkland Dr. **BE RECEIVED** by the Clerk and the Clerk **BE DIRECTED** to forward the petition to the Chief Building Official for the purpose of an examination of the requested works or undertakings; and further that a report **BE PROVIDED** consistent with the direction provided.

Carried.

ACO/11248

Steve Vlachodimos

Deputy City Clerk/Senior Manager of Council Services

February 8, 2012

/s/

✓ Internal Distribution
Chief Building Official

External Distribution

PETITION REQUEST

Whereas large concrete blocks, commonly known as "jersey barriers", have been installed in our immediate residential neighbourhood without our consent and these ugly eyesores have reflective tape on them, more suitable on a construction site or as dividers along a highway, we are petitioning that they do not belong in a quiet, well-maintained residential neighbourhood. The residents living near these ugly barriers have a concern for property values and feel that these unwanted intrusions may cause others to question the value of living nearby.

These concerns are shared by more than one hundred people living on Blue Heron, Leathorne, Castleton, Firgrove, Kirkland and Banwell St. (please see attached petition sheets). We hereby petition the City of Windsor to do everything in its municipal power to have these barriers removed and replaced with either flower boxes, potted trees or some other acceptable containers more suitable to our residential standards. In exchange, we commit to caring for the flowers and/or trees as long as we have to endure barriers in our subdivision.

PETITION BY THE BLUE HERON TWIN VILLAS

We, the residents of the Blue Heron Twin Villas, are petitioning the City of Windsor to remove the "jersey barriers" on Leathorne Dr. and facing Blue Heron Dr. and Kirkland Dr. We are requesting their removal immediately.

<u>NAME</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>
Joe Meunier	1908 KIRKLAND	Joseph Meunier
Bill & Norm Siquin	1892 Kirkland Ave	Norm Siquin
ANGIE + BRENDAN LANE	1856 KIRKLAND AVE	Angie Lane
Harley Paulin	1844 Kirkland	Harley Paulin
Sue Somers	1820 Kirkland	Sue Somers
Pauline + Helen	1768 Kirkland	Pauline Chasso
Minanda Romit	1720 Kirkland	Minanda Romit
Lucia Bortolotto	1932 Olexmas	Lucia Bortolotto
William Jesty	1717 Kirkland	William Jesty
Shirley Douglas	1777 Kirkland	Shirley Douglas
George Douglas	1777 Kirkland	George Douglas
Clara + Wilbur	1817 Kirkland	Clara Wilbur
Edna + ...	1841 Kirkland Ave	Edna ...
Aida Vadori	1853 Kirkland Ave.	ARDA VADORI
Edna
David Regue	1929 KIRKLAND AVE	David Regue
Michelle Campbell	1941 Kirkland Ave.	Michelle Campbell
Alan Alexander	1979 Kirkland Ave.	Alan Alexander
PAT GLEASON	1844 KIRKLAND	Pat Gleason
KARA DRAGAN	Wicks Centre	1980 Portland St
William Jurek	1968 Overland	William Jurek
Marie Laporte	1920 Banwell Rd	Marie Laporte
Earl G. Harton	1908 " "	Earl G. Harton
Gene Thomson	1897 " "	Gene Thomson
Shirley Thompson	1844 Banwell	Shirley Thompson
Thelma Lohr	1832 Banwell Rd	Thelma Lohr
Andrew McKay	1820 Banwell Rd	Andrew McKay
Carolyn ...	1792 Banwell Rd	Carolyn ...
LARRY MAYDEN	1744 BANWELL	Larry Maiden
Marlene Foy	1732 Banwell Rd	Marlene Foy
Eugene Crosby	1708 Banwell Rd	Eugene Crosby
Beverly Egan	1745 Blue Heron	Beverly Egan

PETITION BY THE BLUE HERON TWIN VILLAS

We, the residents of the Blue Heron Twin Villas, are petitioning the City of Windsor to remove the "jersey barriers" on Leathorne Dr. and facing Blue Heron Dr. and Kirkland Dr. We are requesting their removal immediately.

<u>NAME</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>
DORIS LAMOURGUY	1985 BLUE HERON	Doris Lamourguy
MARNY BEALE	1955 BLUE HERON	Marny Beale
Ld Labute	1969 Blue Heron	Ld Labute
Maria Jeanne Hest	1969 Blue Heron	M. Jeanne Hest
MARIA FERRONE	1997 BLUE HERON	Maria Ferrone
DOMENIC FERRONE	1997 Blue Heron	Ferrone D.
Lynnda Bradford	11521 Leathorne	Lynnda Bradford
Francie Martyn	11575 Leathorne	Francie Martyn
DAVID MARTYN	" "	David Martyn
JORI MAYBA	115571 "	Jori Mayba
AGNES MAYBA	11557 "	Agnes Mayba
NIZ HOLLOWECKY	11557 "	Niz Hollowecky
NOIM HOLLOWECKY	"	Noim Hollowecky
Jennifer Haddow	11533 Leathorne	J Haddow
BRYAN ROSS	1978 CASTLETON	Bryan Ross
Bill Swan	1266 Castleton "	Bill Swan
Margaret Swan	1566 Castleton "	Margaret Swan
MIKE KELLY	1930 CASTLETON	Michael Kelly
JOSIE RUKAVINA	1986 CASTLETON	Josie Rukavina
NITA MOQUE	1870 CASTLETON	Nita Moque
LIZ GEIER	1878 Castleton Ave.	Liz Geier
Cheryl Richardson	1854 Castleton Ave	Cheryl Richardson
Beth Cheswick	1818 Castleton Ave	Beth Cheswick
Gord Cheswick	1818 Castleton Ave	Gord Cheswick
FRANK PIETRAS	1790 CASTLETON	Frank Pietras
DOROTHY POTTER	1778 CASTLETON	Dorothy Potter
BILL ZWIDLS	1742 CASTLETON	Bill Zwidls
SANDRA ZWIDLS	1742 CASTLETON	Sandra Zwidls
GILBERT ROCHEREAU	1716 CASTLETON	Gilbert Rochereau
MIKE JANE	1706 CASTLETON	Mike Jane