

Access Closure Bylaw for 8775 – 17 Avenue SE

RECOMMENDATION:

That the Infrastructure and Planning Committee recommends that Council:

1. Give three readings to the proposed Bylaw to remove the existing all-turns access for 8775 – 17 Avenue SE onto 17 Avenue SE (Attachment 2); and
2. Direct Administration to modify the existing easterly access to accommodate all turns onto 17 Avenue SE.

RECOMMENDATION OF THE INFRASTRUCTURE AND PLANNING COMMITTEE, 2023 MAY 10:

That Council:

1. Give three readings to **Proposed Bylaw 4C2023** to remove the existing all-turns access for 8775 – 17 Avenue SE onto 17 Avenue SE (Attachment 2); and
2. Direct Administration to modify the existing easterly access **or facilitate the negotiation of an alternate solution with the landowners and the Ward Councillor's office no later than June 30, 2023.**

Excerpt from the Minutes of the 2023 May 10 Infrastructure and Planning Committee:

"A clerical correction was noted on page 1 of the Cover Report of Report IP2023-0270, in the Highlights section, 5th paragraph, by deleting the words "The *Highways Development and Protection Act* requires all private properties be provided with road access and allows a municipality to remove or relocate any direct physical means of access by bylaw at a Public Hearing."

The following documents were distributed with respect to Report IP2023-0270:

- A Public Submission; and
- A letter from Bill Ing.

The following speakers addressed Committee with respect to Report IP2023-0270:

1. Bill Ing
2. Alex Braun, Minto Group

Moved by Councillor Chabot

That with respect to Report IP2023-0270, the following be approved:
That the Recommendations be amended by deleting "June 30, 2023" and replacing with "June 20, 2023".

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Pursuant to Section 100(3) of Procedure Bylaw 35M2017, the motion was withdrawn by General Consent.

Moved by Councillor Carra

That with respect to Report IP2023-0270, the following be approved, **after amendment**:

That the Infrastructure and Planning Committee recommend that Council:

1. Give three readings to the proposed Bylaw to remove the existing all-turns access for 8775 – 17 Avenue SE onto 17 Avenue SE (Attachment 2); and
2. Direct Administration to modify the existing easterly access **or facilitate the negotiation of an alternate solution with the landowners and the Ward Councillor's office no later than June 30, 2023.**

For: Councillor Carra, Councillor Sharp, Councillor Spencer, Councillor McLean,
(8) Councillor Wyness, Councillor Mian, Councillor Chabot, and Councillor Wong

MOTION CARRIED”

HIGHLIGHTS

- This report asks Council to approve a bylaw to close a public road access to a private property and direct Administration to upgrade a different access point further east on the property.
- What does this mean to Calgarians? To support safe access and future development in the community, this bylaw would allow for 84 Street SE to be reconstructed in alignment with the *Belvedere Area Structure Plan (ASP)*.
- Why does this matter? The City has an obligation to ensure roads are safe for all users. The City aims to ensure every property has road access in a manner and location that does not impede the rights or obligations of adjacent landowners.
- A mixed-use development project is under way south of 17 Avenue SE, east of the existing 84 Street SE and west of the subject site. As part of the approved outline plan, the developer is required to build 84 Street SE as an arterial street in its new alignment along the eastern boundary of the plan area. However, the existing driveway access to the subject site east of the new alignment prevents construction of the road. While discussions between the developer of the outline plan area and the landowners of the subject site have been underway since November 2019, they have not been able to reach an agreement on relocating the driveway.
- Administration is proceeding with a driveway closure to facilitate the construction of the new 84 Street SE alignment.

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- Background and Previous Council Direction is included in Attachment 1.

DISCUSSION

Administration is proposing to close the primary access to the subject parcel located at 8775 – 17 Avenue SE and upgrade an existing secondary access. See Attachment 3 for a diagram of the access locations and affected property.

Map 10 of the *Belvedere Area Structure Plan (ASP)*, approved in April 2013, establishes a future road network intended to support development in the southeastern community of Belvedere (Attachment 4). The existing 84 Street SE is to be realigned further east and upgraded to an arterial standard, which has already been completed north of 17 Avenue SE to provide access to the regional retail centre. The status of the old existing alignment for 84 Street SE south of 17 Avenue SE is yet to be determined.

Specific cross-sections and alignment for the new 84 Street SE south of 17 Avenue SE (Attachment 5) were further developed and approved in April 2020 through a land use and outline plan application to allow for mixed-use and residential development, including approximately 580 residential units (LOC2018-0275). Phase 1 of that outline plan is currently under construction, including new east-west roads (19 Avenue SE and 21 Avenue SE), as well as a small portion of the new 84 Street SE (see Attachment 3, Figure 2).

The subject site is directly east of this outline plan area, with driveway access directly from the intersection of 17 Avenue SE and the new alignment of 84 Street SE. This existing driveway access for the subject site prevents continuation of 84 Street SE south of the intersection along its final alignment and must be removed to allow the roadway to be constructed.

The subject site has a secondary right-in, right-out access onto 17 Avenue SE, approximately 170 metres east of the intersection (see Attachment 3, Figure 1). Administration intends to upgrade this access to an all-turns access by having the median removed.

As the access closure would formally occur at the time the bylaw is adopted, Administration has also prepared a temporary access permit granting the affected landowner the right to continue using the closed access until such time as the new access is upgraded. The landowner would be given 10 days notice of the physical closure of the previous access.

EXTERNAL ENGAGEMENT AND COMMUNICATION

- | | | | |
|-------------------------------------|---|-------------------------------------|---|
| <input type="checkbox"/> | Public engagement was undertaken | <input checked="" type="checkbox"/> | Dialogue with interested parties was undertaken |
| <input checked="" type="checkbox"/> | Public/interested parties were informed | <input checked="" type="checkbox"/> | Public communication or engagement was not required |

Discussions with the affected landowner and the outline plan area developer took place through the review of construction drawings for the 84 Street SE right-of-way and cross-section.

Discussions occurred as follows:

- 2019 November – Initial discussion with the subject landowner was undertaken.
- 2021 March – The developer requested permission from the landowner to construct an alternate driveway for the subject property accessing 84 Street SE.

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- 2021 May – An on-site meeting was held with the landowner, the developer and Administration, further clarifying how the existing driveway would create a conflict and that a new or upgraded access could be provided.
- 2022 August – As the landowner and the developer could not negotiate a settlement, Administration decided to pursue an access closure bylaw to remove the subject driveway to allow for the construction of 84 Street SE in its new alignment.
- 2023 January – The landowner was notified that The City would be proceeding with the preparation of the access closure bylaw, and that an alternate access onto 17 Avenue SE could be constructed.

Public notice is not required for the bylaw and hence no broader public engagement has occurred.

IMPLICATIONS

Social

Not applicable.

Environmental

Not applicable.

Economic

As development occurs within Belvedere, the road network will be constructed to support the ultimate build-out envisioned by the ASP. As the area is under development, the complete road network has not yet been built, so interim access solutions may be required to maintain access to undeveloped properties.

Service and Financial Implications

No anticipated financial impact.

RISK

Section 28 of the *Highways Development and Protection Act* (the Act) allows a municipality to remove any direct physical means of access between a controlled street (such as 17 Avenue SE) and adjacent land by bylaw. Development of the road network approved through LOC2018-0275 is underway and Administration and the subject landowner have been unable to agree on a revision to their existing property access. As such, Administration is recommending a bylaw pursuant to the Act to remove the existing all-turns access onto 17 Avenue SE.

If Council approves the bylaw, the landowner has the right to make a claim for compensation under Section 29 of the Act.

ATTACHMENTS

1. Previous Council Direction
2. **Proposed Bylaw 4C2023**
3. Diagram of Access Points onto Subject Parcel
4. Belvedere Area Structure Plan Road Network
5. Approved Outline Plan
6. Presentation

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Infrastructure and Planning Committee
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- 7. Public Submissions**
- 8. Public Submission Letter**

Department Circulation

General Manager/Director	Department	Approve/Consult/Inform
Stuart Dalglish	Planning & Development Services	Approve
Deb Hamilton	Community Planning	Consult
Troy McLeod	Mobility	Inform