



PLANNING AND BUILDING SERVICES

Town of Newmarket

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March 19, 2015

DEVELOPMENT AND INFRASTRUCTURE SERVICES/PLANNING & BUILDING SERVICES REPORT 2015-09

TO: Committee of the Whole

SUBJECT: **Application for Draft Plan of Subdivision, Draft Plan of Condominium, Official Plan and Zoning Bylaw Amendment by 292145 Ontario Limited**
Town File 19TN 2013 002
Part of Lot 89, Concession 1, E.Y.S., lands west of the terminus of Silken Laumann Drive between the Metrolinx Rail Corridor and the existing Hydro Corridor
Files: D7, D9, D12 & D14-NP13 16

ORIGIN: Planning and Building Services

RECOMMENDATIONS

THAT Development and Infrastructure Services/Planning and Building Services Report 2015-09 dated March 19, 2015 regarding Application for Official Plan Amendment, zoning by-law amendment, Draft Plan of Condominium and Draft Plan of Subdivision be received and the following recommendation(s) be adopted:

1. THAT the Application for Official Plan Amendment, zoning by-law amendment, Draft Plan of Condominium and Draft Plan of Subdivision, as submitted by 292145 Ontario Limited for lands being composed of part of Lot 89, Concession 1 E.Y.S. not be supported by Council at the Ontario Municipal Board due to substantial unresolved issues regarding the proposed form of development as set out within this report;
2. And That Council direct staff and legal counsel to request Party status at the Ontario Municipal Board hearing, and that if required, Staff be authorized to retain external counsel and any required expert witnesses to attend and give evidence at the Ontario Municipal Board in support of Council's decision;
3. AND THAT staff and legal counsel continue to work with the proponent and commenting agencies toward the resolution of issues in advance of the Ontario Municipal Board hearing;
4. AND THAT Gary Templeton, Templeton Planning Ltd, 71 Tyler Street, Aurora, ON, L4G 2N1 be notified of this action.

COMMENTS

Background

The subject lands are located between the Metrolinx Rail Corridor and the existing Hydro Corridor (as illustrated on the attached map), west of the present terminus of Silken Laumann Drive, in the Town of Newmarket. The subject property is approximately 1.5 ha (3.7 acres) and is currently vacant. The

property is designated as Urban Area by the Regional Official Plan and is designated Natural Heritage Systems (and Meadow 1 as the subcategory) in the Town's Official Plan. The development proposal is for twenty-eight (28) freehold townhouses on a common element condominium road.

The developer filed applications for Official Plan and Zoning By-law Amendment and plans of subdivision and condominium in July 2013. The Applications were deemed complete on August 28, 2013. Various reports were filed in support of the applications. A public meeting was held on February 24, 2014. Comments from Town departments and outside agencies have provided comments on the proposal that have not yet been addressed by the developer. The developer subsequently filed the appeals on the above noted development applications on September 4, 2014.

The applicant is proposing to redesignate the subject lands from The Natural Heritage System (Meadows) to Emerging Residential. The application also proposes to rezone the subject lands from the Environmental Protection Open Space (OS-EP) zone to the Residential Townhouse Dwelling 3 (R4-R) zone to permit a common element condominium consisting of 28 freehold townhomes on a private condominium road.

Legal Services will be circulating a companion Confidential Information Report to provide information around the litigation history related to the subject lands.

PLANNING ANALYSIS

The applications submitted for Official Plan Amendment, Zoning By-law amendment, Draft Plan of Condominium and draft plan of subdivision continue to have a number of outstanding items identified by staff and agencies that need to be addressed.

Provincial Policy Statement

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. As a key part of Ontario's policy-led planning system, the PPS sets the policy foundation for regulating the development and use of land. It also supports the provincial goal to enhance the quality of life for the citizens of Ontario.

Planning decisions shall be consistent with the Provincial Policy Statement. The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. The PPS supports improved land use planning and management, which contributes to a more effective and efficient land use planning system.

The Provincial Policy Statement is intended to be read in its entirety and the relevant policies are to be applied to each situation.

Section 1.1.3. entitled "Settlement Areas" requires that the focus of growth be within settlement areas and promote efficient development patterns, protect resources, promote green spaces, ensure effective use of infrastructure and public service facilities and minimize unnecessary public expenditures.

Section 1.4 entitled "Housing" encourages an appropriate range and mix of housing types and densities for residential growth including town homes.

Section 2.5 entitled "Public Spaces, Recreation, Parks, Trails and Open Space" encourages healthy, active communities by promoting safe pedestrian friendly streets, facilitating active transportation and community

connectivity. The proposed development will be served by sidewalks along the public road leading to the site and trail connection opportunities are identified in the Town's Parks Master Plan.

Section 2.0 entitled "Wise Use and Management of Resources" discusses conserving biodiversity, protecting natural heritage, water, agriculture, mineral and cultural heritage and archaeological resources for their economic, environmental and social benefits. Specifically, the PPS indicates that natural features and areas shall be protected for the long term. The current review by the LSRCA will determine the impacts this proposal will have on the Natural Heritage System. Until such time as the review is complete, it is unsure if the proposal is consistent with the Natural Heritage policies of the PPS.

Official Plan Considerations

The subject property is designated Natural Heritage System on Schedule "A" Land Use plan and shown as Meadow on Schedule B detailing the Natural Heritage System, in the 2006 Official Plan. The applicant has applied to redesignate the subject lands to the Emerging Residential designation to permit ground related townhomes.

The Natural Heritage System, which includes woodlots, meadows, watercourses and wetlands are to be protected and enhanced where possible. The Official Plan states that there are two types of Meadows designated in the plan – Meadow 1 and Meadow 2. Meadow 1 represents lands that are completely within the existing floodplain and Meadow 2 lands are outside of the floodplain. Development and site alteration are not permitted in any Meadow 1, however, Meadow 2 designation would permit limited development and site alteration provided it can be demonstrated through an Environmental Impact Statement that there will be no negative impacts on the feature or no loss of function.

This application would see the removal of the Natural Heritage designation which necessarily needs to be appropriately justified. An Environmental Impact Statement has been submitted as part of the application and concludes that the development, as proposed, will not result in a negative impact on existing natural heritage features and functions. The LSRCA review of the impacts on the Natural Heritage System remains outstanding as they require further information from the proponent to complete the review.

Lake Simcoe Region Conservation Authority

LSRCA has reviewed the applications and supporting documents and have provided a number of comments to be addressed. To date, there are outstanding items from the LSRCA review as it relates to the Natural Heritage designation of the subject lands.

1. The extent of the Meadow 1 feature has increased due to the updated floodplain information provided in comment 1 above (and previous letter of March 21, 2014). The EIS needs to be updated to address this change with respect to the buffer provided between the development and the Meadow 1 lands.
2. Justification for the 'Limited development' in the Meadow 2 lands should not include the Meadow 1 land base. The Meadow 1 lands are already protected and cannot be subject to 'limited development'. The development proposed should demonstrate no negative impact and loss of function within the Meadow 2 land base.
3. In order to obtain a permit through Ontario Regulation 179/06 of the Conservation Authorities Act, the proponent must meet the following tests: control of flooding, erosion, dynamic beaches,

pollution and the conservation of land. Further to this, Section 11.4.2.1 (iii) of the LSRCA Watershed Development Policies requires that any proposal for development within a wetland be on land that is already appropriately designated and zoned in the Official Plan and zoning By-law for the intended use. Please provide adequate protection to the wetland community at the northern portion of this site (MAS2-1) to satisfy the conservation of land test and Section 11.4.2.1 (iii) and 11.5.2 of the LSRCA Watershed Development Policies.

The above review is fundamental for staff to make a recommendation. The appropriateness of the Official Plan amendment, for the most part, rests on the developer to demonstrate that the proposal will have no negative impacts on the overall Meadow 1 feature identified in the plan and that there is no loss of function. Until such time at the required information is submitted and reviewed by the LSRCA, staff are unable to support the applications for Official Plan Amendment, Zoning By-Law Amendment, Draft Plan of Condominium and Draft Plan of Subdivision.

Noise and Vibration

Aiolos Engineering, the town's peer reviewer for noise and vibration reports has requested additional information from the developer's consultant which has not been submitted to date. The noise and vibration review therefore remains outstanding, and it is unclear whether the development as proposed can proceed based on the technical requirements and standards that have to be met.

The submitted study indicates that the impacts from noise and vibration sources are within the Ministry of the Environment guidelines and provides recommendations in terms of requiring central air conditioning, particular construction materials and warning clauses for purchasers. The report also includes correspondence with GO Transit which requires a safety berm and noise attenuation fence adjacent to the rail line. This installation of these features may have impact on the plan. As noted, the Town peer review consultant, Aiolos Engineering, requires additional information from the developer to address these issues.

Hydro One

Engineering Services has indicated that Hydro One approval is required for proposed works in the Hydro corridor as it relates to the proposed turning circle, sanitary sewer, water supply and grading. Hydro One has completed a preliminary technical review with a final review to be completed through the submission of detailed engineering drawings. Engineering Services have noted that the water service, sanitary, roads and grading within the corridor will require Hydro One approval and that the draft plan should not be approved until Hydro One's acceptance is obtained.

Engineering Services Comments

Storm – There are a number of Storm Water Management issues/comments that need to be addressed prior to the Draft Plan being approved related to the technical design of the proposed storm water management system.

Water – The water demand calculations and maximum hourly demand modeling are acceptable. The water modeling did not account for headloss during a fire flow condition and must be redone. As a looped system through the hydro corridor is proposed, it is recommended that Hydro One approval be received prior to the Draft Plan being approved.

Environmental Site Assessment (ESA) – Phase One – the revised Phase One report is acceptable and recommends a Limited Phase Two Environmental Assessment be carried out to verify the potential soil

contamination from cinders from the rail track embankment. This will involve collection of soil samples and laboratory analytical analysis for metal and PAH parameters. The results of this work should be submitted to the Town for review. A Record of Site Condition under the Environmental Protection Act will not be required.

Phase Two – The submitted “Limited Phase Two ESA” is not in compliance with O.Reg 153/04 for a Phase Two ESA and not what was recommended in the original Phase One ESA. The revised Phase Two ESA work remains outstanding.

Roads and Traffic – Engineering Services has indicated that no adverse effects on Silken Laumann Drive are expected as a result of the traffic that will be generated from the proposed development and no specific improvements will be required to the existing road network. However, as mentioned earlier, it is recommended that the Draft Plan not be approved until such time as Hydro One approval is obtained for the proposed cul-de-sac within the corridor.

Sanitary - Sanitary sewage from the proposed development will discharge to the existing sanitary pumping station located on Sydor Court. The developer will be responsible for designing and constructing the sanitary sewers required for this development. Any modifications to existing sanitary pumping station will be the responsibility of the developer.

The current FSR shows the obvert of the proposed sanitary sewer at the rear of Blocks 4 and 5 (northerly two blocks) to be approximately 0.75m above the existing ground elevation. Hydro One comments with respect to filling in the existing corridor and easement are critical to establish the width of easement and any insulation measures that may be required. It is recommended that the Draft Plan not be approved until such time as Hydro One approval in principal is obtained.

Grading – It is recommended that the applicant obtain permission from Hydro One to place fill at the rear of blocks 3-5 to maximize rear yard amenity areas. Fill is also required in the Hydro One corridor to provide adequate cover over the sanitary sewer required for this subdivision. Staff can not support the plan until Hydro One approval is obtained.

Other Planning Issues

Compatibility/Urban Design – The proposed two storey townhomes are compatible with the residential uses in the area. Urban Design/Architectural Control Guidelines are recommended as part of any OMB approval including upgraded rear facades.

Connectivity – The Parks Master Plan identifies two pedestrian trails extending through this proposed development. One leads westerly over/under the rail line through the Bailey Ecological Park and connecting with the existing Nokidaa Trail. The second proposed pedestrian trail leads southerly through the St. Andrews Valley Golf Course and connecting to Lauralwood Parkette on Shadrach Drive. Staff recommend that as part of any OMB approval, that the developer provide these trail/connections through this development in accordance with Town standards.

Public Comments

A Statutory Public meeting was held on February 24, 2014 at which time there were a number of comments by residents. Those comments have been identified under various headings below.

Environmental concerns (wildlife, environmental impact of development) –LSRCA review of the Natural Heritage system is outstanding due to requiring further information from the applicant.

Loss of recreational use of land – The subject lands are private property and are not publicly available for use. The remaining open space lands in the vicinity are publicly owned. Opportunities for the developer to provide trail connections to and from the site are being recommended.

Increased Traffic – Traffic impact has been reviewed by Engineering Services and found that no adverse effects on Silken Laumann Drive are expected. Access by emergency services – Emergency Services have not identified any issues with access to this proposal.

Snow removal - Private snow removal will be required. If there is no appropriate location to store excess snow on site, it will be required to be removed from the site.

Garbage pick-up – Private garbage pick-up will be required.

Proximity to Hydro transmission (health concerns) –Hydro provide requirements that relate to setbacks to the swing of transmission lines to ensure the safety of adjacent homeowners, however they do not discuss Electronic Magnetic Fields (EMFs). It would appear that there is no consensus on the impacts of EMFs from hydro transmission lines on public health.

Proximity to the railroad tracks - The noise and vibration study is currently incomplete. Further information is required to finalize the review.

Potential flooding of SWM ponds –Engineering services comments on the SWM system are not complete. However, storm ponds are designed to accommodate the 100 year storm events. In the event the pond cannot accommodate the water, a spill way is incorporated to direct water to an appropriate place.

Notice to Residents – The notice circulation requirements of the Planning Act were complied with. The Ward Councillor also distributed notice in the Community beyond the Planning Act requirements.

York Catholic District School Board

The YCDSB has provided a letter indicating no objection to the proposed development. However, they do indicate that the existing bus route cannot be extended and students from the proposed development will have to walk to the closest school bus collector point located at the intersection of Silken Laumann Drive and McBean Avenue.

York Region District School Board

The York Region District School Board has indicated no objection to the proposal.

Conclusion

There remain a number of outstanding items that need to be addressed in relation to the Natural Heritage review, storm water management, water modelling, noise and vibration and Hydro One approvals for proposed works within the corridor that, depending on the outcome of the review may have fundamental impacts on the proposal. Staff cannot currently support the applications based on the outstanding issues. However, if these issues can be satisfied, staff may consider the applications appropriate.

Servicing Allocation

Servicing allocation has not been granted for this proposed draft plan of subdivision.

BUSINESS PLAN AND STRATEGIC PLAN LINKAGES

This application has linkages to the Community Strategic Plan as follows:

Well-Equipped and Managed: ensuring that applications for new development comply with all applicable policies and requirements prior to approval

COMMUNITY CONSULTATION POLICY

The recommendations of this report include comments received by residents at the Statutory Public meeting.

BUDGET IMPACT

Operating Budget (Current and Future)

If the recommendations set out in this report are adopted, there will be costs associated with defending this matter at the Ontario Municipal Board.

The developer has paid the appropriate planning application fees for Official Plan and Zoning by-law Amendment, Draft Plans of Condominium and Subdivision. The Town will also receive revenue from development charges and increased assessment revenue if the applications are approved by the Ontario Municipal Board.

Capital Budget

There is no direct capital budget impact as a result of this report.

CONTACT

For more information on this report, contact: Dave Ruggle, Senior Planner – Community Planning, at 905-953-5321, ext 2454; druggle@newmarket.ca

Attachments

- 1 - Location Map
- 2 - Proposed Draft Plan of Subdivision



Commissioner Development and Infrastructure
Services



Director of Planning and Building Services



Senior Planner – Community Planning



