



PLANNING AND BUILDING SERVICES

Town of Newmarket

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August 20, 2015

**DEVELOPMENT AND INFRASTRUCTURE SERVICES/PLANNING & BUILDING SERVICES REPORT
2015-36**

TO: Committee of the Whole

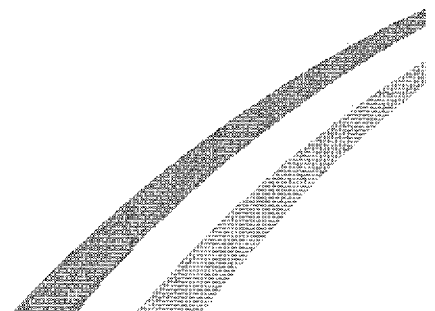
SUBJECT: **Appeals to the Ontario Municipal Board of Applications for Draft Plan of Subdivision,
Draft Plan of Condominium, Official Plan and Zoning Bylaw Amendments
19TN 2013 002
Part of Lot 89, Concession 1, E.Y.S.,
St Andrews of Bayview Phase 5
292145 Ontario Limited
Files: D7, D9, D12 & D14-NP13 16**

ORIGIN: Planning and Building Services

RECOMMENDATIONS

THAT Development and Infrastructure Services/Planning and Building Services Report 2015-36 dated August 20, 2015 regarding appeals to the Ontario Municipal Board of Applications for Official Plan and Zoning By-law Amendments, Draft Plans of Condominium and Subdivision be received and the following recommendation(s) be adopted:

1. THAT Development and Infrastructure Services/Planning and Building Services Report 2015-36 regarding appeals to the Ontario Municipal Board of Applications for Official Plan and Zoning By-law Amendments, Draft Plans of Condominium and Subdivision, by 292145 Ontario Limited for lands described as Part of Lot 89, Concession 1 E.Y.S. ("the lands") be received;
2. And That Council direct staff and legal counsel to continue to work with the applicant toward the settlement of all remaining issues, including the use of Town owned land, in advance of the Ontario Municipal Board hearing;
3. AND THAT staff and legal counsel be authorized to enter into Minutes of Settlement with the applicant reflecting Draft Plan Conditions and/or conditions to be included in the Development Agreement to address all issues to the Town's satisfaction;
4. And that Gary Templeton, Templeton Planning Ltd, 71 Tyler Street, Aurora, ON, L4G 2N1 be notified of this action by the Clerk.



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 System (and Meadow 2 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. The developer subsequently appealed the above noted development applications on September 4, 2014.

Prior to the Ontario Municipal Board pre-hearing on March 26, 2015, staff report 2015-09 recommended that the Town request Party status at the OMB due to substantial unresolved issues regarding the proposed form of development. Council adopted staff's recommendation including a recommendation that staff work with the applicant toward the resolution of outstanding issues prior to the Ontario Municipal Board hearing.

At the OMB pre-hearing, a hearing date of September 28, 2015 was scheduled. Since the pre-hearing, the applicant has been providing additional material to departments and agencies for review. Staff have now received additional reports, studies and other submission material that indicates that most of the outstanding issues have been appropriately addressed. The remaining issues are considered minor in nature and can be addressed through Minutes of Settlement, Draft Plan conditions and terms in the Development Agreements. The outstanding issues, and how they have been addressed, are outlined below.

Proposal

The applicant is proposing to redesignate the subject lands from The Natural Heritage System (Meadow) 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 at grade townhomes on the subject lands with a private road connection across the existing Hydro corridor.

PLANNING ANALYSIS

The applications submitted for Official Plan Amendment, Zoning By-law Amendment, Draft Plan of Condominium and Draft Plan of Subdivision have advanced to a point where staff are recommending direction to enter into Minutes of Settlement to allow the proposal to proceed. The below outlines how outstanding issues identified in Planning Report 2015-09 dated March 19, 2015 have been addressed as well as where any outstanding issues remain.

Lake Simcoe Region Conservation Authority Review

The appropriateness of the Official Plan Amendment, for the most part, rests with the developer to demonstrate that the proposal will have no negative impacts on the overall Meadow 2 feature identified in the plan and that there will be no loss of function. The LSRCA, who provide the environmental review on behalf of the Region of York, have now reviewed the supporting reports, studies and documents and have provided a number of comments.

A revised Functional Servicing Report and additional information on the Environmental Impact Study was submitted to the LSRCA for review and comment. The LSRCA have indicated that they agree with the analysis that no loss of function to the Meadow 2 Natural Heritage Area will occur as a result of this development proposal. There is one outstanding issue as it relates to the LSRCA review. In an effort to recreate the disturbed wetland community, the developer is required to provide a replacement channel design at a 3:1 ratio. To implement this, works need to occur on lands owned by the Town of Newmarket. This is discussed further under the heading “Use of Town Owned Land” below.

Meadow 2 Analysis - In order to mitigate for the loss of the Meadow 2 land base on the lands, a number of revisions have been made to the proposed development plan as described by Beacon Environmental below:

- The storm water management facility has been converted to a wet/dry pond. This will limit the amount of disturbance within the Meadow 2 land base by decreasing the area required for the facility. Further, this area will be left to regenerate as a natural area, thereby not limiting or bisecting the meadow community and its function on the property.
- A 25 metre corridor has been provided along the western boundary of the site in which a second spillway has been provided. This will ensure that the storm water flows will be unimpeded by the proposed development. The storm water management facility has been shifted to the east to accommodate this corridor. This corridor will also maintain a north-south connection between the meadow habitat located north and south of the subject property.
- An infiltration gallery will be provided along the rear yard of the proposed development lands (Blocks 2 and 3) as an added Low Impact Design element. This will provide drainage for the eastern portion of the rear yards while maintaining open space and meadow habitat along the eastern property boundary as well.

Based on these revisions to the proposed development plan the proposed plan represents limited development within the Meadow 2 habitat. The development is limited in that the revised plan maintains a north/south corridor connection between the meadow habitat to the north and south of the proposed development. These north-south corridors will be vegetated and will provide for the movement of flora and fauna within the meadow habitat maintaining the function across the property. Further, the amount of land being developed within the Meadow areas constitutes less than 2.5% of the entire meadow community area.

The LSRCA have accepted the analysis prepared by Beacon Environmental and concur with the final recommendations that this proposed development will not have negative impacts on the overall Meadow 2 feature identified in the Official Plan.

Safety Berm – There was an issue regarding whether a safety berm along the rail corridor was required. If required, this safety berm would encroach into the proposed storm water management facility necessitating a redesign. However, Metrolinx has confirmed that a safety berm is not required and would provide little benefit due to the setback of the proposed dwellings to the rail corridor and the proposed grades between the uses.

Wetland Protection: the LSRCA has indicated that it is willing to accept the relocation of the identified watercourse and wetland community based on a net ecological gain in principle. Through the detailed design of this development, a replacement channel design will need to be implemented in accordance with natural channel design principles and appropriate restoration of a vegetated riparian area. The disturbed wetland community will need to be replaced at a 3:1 ratio in an appropriate location within the vicinity of this development. We note that it appears that the proposed location for the channel relocation and wetland compensation is within lands currently owned by the Town of Newmarket. Confirmation must be provided that the Town will accept this work being undertaken on their property at the developer's cost.

Use of Town Owned Land: The plan as proposed requires grading onto town owned lands to accommodate the private road, the greatest impact being at the north end of the cul-de-sac. It is this grading that conflict with the existing channel and small wetland community. If approved, these works will require a working easement to allow the developer access to the Town lands. A portion of the pond is also proposed on Town owned land, which, if approved, will require a permanent easement in favour of the future condominium board for maintenance.

It is not uncommon for subdivision applications to include works external to the plan, typically they relate to servicing including storm water management ponds or pedestrian connections. There have been external works related to environmental matters such as offsite vegetation planting and enhancements to forest edges.

However, as this plan is dependent on lands outside of the developer's ownership as it relates to grading and a portion of the storm water management facility, discussions still need to occur regarding what additional public benefit contributions the developer is prepared to offer to the Town over and above the normal and usual contributions to trails, public art and other items under the servicing allocation policy.

Region of York

As noted above, the Region of York are relying on the LSRCA regarding environmental issues as they relate to these applications. The Region have provided draft plan conditions and pre-conditions to be presented to the OMB once the appropriateness of the applications has been determined. The conditions relate to ensuring servicing and servicing allocation is available, the use of the Holding provision on any approved zoning by-law, source water protection and Regional Development Charges.

Noise and Vibration

HGC Engineering, the proponent's noise consultant, provided the outstanding information to the Town's noise and vibration peer reviewer, Aiolos Engineering. The peer review of the additional material has enabled Aiolos Engineering to provide an approval of the submitted noise and vibration study indicating compliance with Ministry of the Environment requirements.

Engineering Services Comments

Engineering Services have reviewed the revised submitted material and have indicated they have no objection to the approval of the draft plan of subdivision subject to the standard engineering draft plan conditions and the additional specific conditions identified below.

1. The Owner shall submit an updated Functional Servicing Report prepared by a qualified professional to the satisfaction of the Town's Director of Engineering Services as part of the First Engineering Submission. The Owner shall agree in the Subdivision Agreement to carry out, or cause to be carried out, the recommendations set out in the approved report, to the satisfaction of the Town.
2. The Owner will be responsible to carry out a review of the operation of the existing sanitary pumping station on Sydor Court to determine if any modifications are required to accommodate flows from this development. The review shall be in the form of a report prepared by a qualified professional and shall be to the satisfaction of the Director of Engineering Services. The Owner shall be responsible for all costs associated with carrying out the review, constructing any modifications to the pumping station, and preparing an updated Operations and Maintenance Manual to the satisfaction of the Director of Engineering Services.
3. The Owner shall agree that the final plan shall be modified to change the radius of the proposed turning circle for Silken Laumann Drive located in the Hydro One corridor from 18 metres to 19 metres to conform to the Town's current Engineering Design Criteria.
4. The Owner shall agree to make any revisions to the final plan as deemed necessary by the Director of Engineering during the Engineering Design Review Process.

Hydro One and Engineering Services

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 has 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.

While Hydro One has not provided explicit approvals for proposed works within the hydro corridor, based on the comments to date, it appears that this issue will be resolved soon. This matter will be the subject of a condition of draft approval that will obligate the owner to obtain Hydro's consent for works within the corridor prior to final approval of the plan.

As the proposed access to this site is across the hydro corridor, and the plan necessitates a public turning circle within the corridor, the developer will be responsible for any cost associated with the use of these lands. This is consistent with the approach taken in other areas of the Town such as in the northwest quadrant (Mattamy).

Planning Issues

Compatibility/Urban Design – The proposed two storey townhomes are compatible with the residential uses in the area. If draft plan approved, urban design/architectural control guidelines will be required including upgraded rear facades.

Connectivity – The Parks Policy Master Plan details a conceptual trail system consisting of multi-use, primary and secondary trails. The manual identifies connections in the vicinity of this proposed development that will be taken into consideration though the detail design stage to ensure public access to the Town's trail system as appropriate.

Public Comments

A number of comments were heard at the Statutory Public meeting held on February 24, 2014. The comments have been identified under various headings below.

1. Environmental concerns (wildlife, environmental impact of development) – the LSRCA review has now concluded that the proposal will have no negative impacts on the function of the Meadow 2 natural Heritage feature. The plan has been designed to maintain a north/south corridor connection between the meadow habitat to the north and south of the proposed development. These north-south corridors will be vegetated and will provide for the movement of flora and fauna within the meadow habitat maintaining the function across the property.
2. 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.
3. Increased Traffic – Traffic impact has been reviewed by Engineering Services and found that no adverse effects on Silken Laumann Drive are expected. In addition, Emergency Services has not identified any concerns with access to this proposal.
4. 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.
5. Garbage pick-up – Private garbage pick-up will be required.
6. 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.
7. Proximity to the railroad tracks - HGC Engineering, the proponent's noise consultant, provided the outstanding information to the Town's noise and vibration peer reviewer, Aiolos Engineering. The peer review of the additional material has enabled Aiolos Engineering to provide an approval of the submitted noise and vibration study indicating compliance with Ministry of the Environment requirements.
8. Potential flooding of SWM ponds –While detailed designs for the storm facility are still required, Engineering Services are satisfied that any outstanding details can be addressed through condition

of draft approval requirements. 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.

9. 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.

Servicing Allocation

Servicing allocation has not been granted for this proposed draft plan of subdivision. If this proposed development is approved, the Holding provision of the Planning Act would be required to be included in the required zoning by-law amendment.

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. Through the review of the Environmental work, the LSRCA have determined that there will be no negative impact to the Meadow 2 Natural Heritage Feature consistent with the Town’s Official Plan policies.

BUSINESS PLAN AND STRATEGIC PLAN LINKAGES

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

Well-Equipped and Managed: by providing opportunities for varied housing types, affordability and densities

COMMUNITY CONSULTATION POLICY

The public meeting for this proposal was held on February 24, 2014. The community has been circulated notice of the Ontario Municipal Board appeals, some of which attended the Ontario Municipal Board pre-hearing and have requested participant status.

BUDGET IMPACT

Operating Budget (Current and Future)

The costs associated with an Ontario Municipal Board hearing will be avoided if the parties are able to present Minutes of Settlement to the Board for consideration and approval.

The appropriate planning application fees have been received for Official Plan amendment, Zoning Bylaw Amendment, Draft Plan of Condominium and Draft Plan of Subdivision. The Town will also receive revenue from development charges and assessment revenue with the development of this subdivision in the event 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

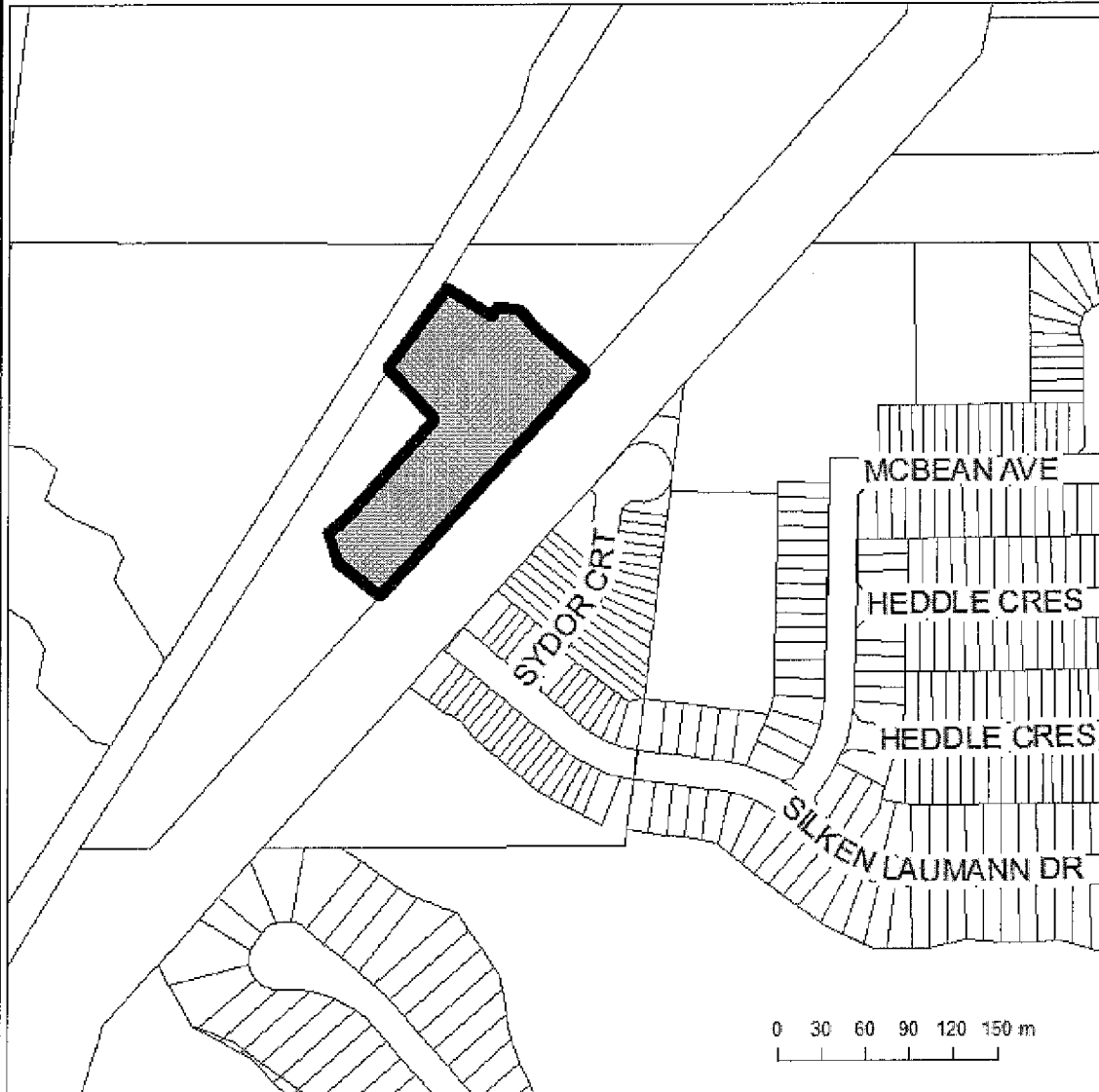



Director of Planning and Building Services



Senior Planner - Community Planning

LOCATION MAP
 Part of Lot 89, Con. 1, EYS
 Westerly Terminus of Silken Laumann Drive
 Town of Newmarket
 Regional Municipality of York



 Subject Lands

TOWN OF NEWMARKET PLANNING DEPARTMENT



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