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## **Municipal Capital Facilities and Municipal Benefits Agreement – Shining Hill Staff Report to Council**

Report Number: 2022-08

Department(s): Office of the Chief Administrative Officer, Development and Infrastructure Services Commission, Corporate Services Commission

Author(s): Antonietta Mollicone, Senior Solicitor

Meeting Date: January 31, 2022

### **Recommendations**

1. That the report entitled Municipal Capital Facilities and Municipal Agreement – Shining Hill dated January 31, 2022 be received; and,
2. That the Mayor and the Chief Administrative Officer be directed to execute the Municipal Capital Facilities and Municipal Benefits Agreement between the Developer (as defined in the Background Section of this report) and the Corporation of the Town of Newmarket (the “**Agreement**”) on the substantial terms outlined in this report; and,
3. That, in the event that Council directs the Town to execute the Agreement with the Developer, staff be directed to post a fully executed copy of the Agreement on the Town’s website; and,
4. That Staff be directed to report back on a by-law to establish a Green Environmental Fund for the purposes identified in this report and for broader environmental purposes as identified by Council from time to time; and,
5. That Staff be authorized and directed to do all things necessary to give effect to this resolution, including without limitation, registration by the Senior Solicitor or her designate of all land registry documents to give effect to the terms and intent of the Agreement.

## Executive Summary

The Town has negotiated an Agreement with the Developer under which the Developer will convey at least 80 acres of environmental sensitive lands to the Town, in addition to providing substantial community and environmental enhancements within the Developer's proposed development which will assist the Town in achieving its strategic priorities related to the economic, social and environmental well-being of the Town to the mutual benefit of the parties.

## Purpose

The purpose of this report is to share with Council the results of a successful negotiation with the Developer, and to request Council approval to enter into a legally binding agreement with the Developer which reflects the terms described in this report.

## Background

In 2018 Shining Hill Estate Collection Inc. applied to the Town to amend the land use designation of lands municipally known as 16250, 16356 and 16450 Yonge Street (the "**Lands**") from environmental protection to a designation allowing for urban uses. The Lands are owned by Shining Hill Estate Collection Inc., 16250 Yonge Street Inc., Emilio Saccucci, Concetta Saccucci and 2512606 Ontario Inc. (referred to in this report collectively as the "**Developer**"). The Lands are located between Yonge Street and Bathurst Street and comprised of three parcels totaling 83 hectares (205 acres). A map of the Lands is included as **Attachment 1**. Planning and Building Services Report 2021-82 sets out a more fulsome background and details of the application.

The Developer has proposed to enter into the Agreement with the Town pursuant to section 110 of the *Municipal Act, 2001* to make contributions and to construct certain municipal capital facilities on Town-owned land, all of which will directly benefit the existing and future residents within the Lands as well as their visitors, Town residents and the public, and the Developer. The municipal capital facilities to be provided or constructed by the Developer pursuant to the Agreement will be owned and independently operated by the Town.

In addition, the Developer has agreed to assist the Town in achieving its strategic priorities and responsibilities pursuant to Section 11 of the *Municipal Act* related to the economic, social and environmental well-being of the Town to the mutual benefit of the parties by agreeing to design standards and other matters that will benefit the Town and its residents.

## Discussion

If approved, the Agreement will require the Developer to fulfill the commitments listed below.

### Environmental Lands Transferred to Public Ownership and Reforestation

- The Developer will transfer to the Town (or other public authority determined by the Town) a minimum of 80 acres of environmental lands within the Lands and construct thereon a minimum of 6 kilometers of trails that comply with provincial accessibility standards.
- The Developer will plant a minimum of 5,000 trees in reforestation areas assigned by the Town and the Lake Simcoe Region Conservation Authority.

### Advanced Environmental Design

- With respect to low impact development (LID) for storm water management in servicing the Lands, the Developer will adhere to and meet the design and construction standards implemented in the residential subdivision development in Newmarket by Mosaik Glenway Homes Inc. in 2012 known informally as the MacGregor Farm, and which standards exceeded the industry best practices for LID.
- For grade related homes, the Developer will provide an energy or heat recovery ventilator, an electrical supply outlet for EV cars/trucks, drain water heat recovery system and native species plant material, and conduit to allow for future wiring of roof-mounted solar panels. For mid-rise or multi-tenant buildings, geothermal technologies or equivalent alternatives will be incorporated.
- The Developer will construct 30 residential dwellings as part of an iconic designed community that will implement an advanced standard of environmentally progressive housing and community design and which is intended to be showcased by the Town as the gold standard for environmental sustainability.

### Complete Communities and Affordable Housing

- The Developer will transfer to Housing York (or other non-profit housing provider determined by the Town) 2.5 acres of land for development of affordable housing.
  - The land will have all necessary servicing connection and the location will be identified by the Town and the Developer near planned commercial uses

- The transfer will include a restriction that the lands be transferred back to Developer if the lands are proposed to be transferred for any purpose other than affordable rental housing
- The Developer will ensure a minimum of 25 dwelling units will include fully finished legal basement secondary suites.
- In addition to and separate from the contributions and commitments by the Developer under the Agreement, the Developer has also partnered with Habitat for Humanity for the provision of land for housing.
- The Developer will construct in the development of the Lands complete communities and housing where residents can live, work, shop and access services in close proximity to where they live. Such design and construction shall incorporate bike lanes, connectivity through greenspace, park amenities and other features to ensure that this connectivity is achieved.
- The Developer will include a range of housing types including condominiums, rental tenure, detached and semi-detached residential buildings
- The Developer will design and construct some housing specifically directed to address the housing needs of seniors and a rapidly aging population which design and construction shall be subject to consultation with professional experts in the field of seniors' housing design.
- The Developer will transfer to the Town at least one acre of land and prepare a community garden thereon which will:
  - include fencing, parking, dedicated water facility and outbuilding
  - be in close proximity to affordable housing within the Lands in a location mutually agreed between the Town and the Developer
- The Developer will transfer to the Town at least one acre of land and construct off-leash dog park(s) thereon which will:
  - include fencing and parking
  - be in a location mutually agreed between the Town and the developer
- The Developer will construct a tennis clubhouse with 12 courts
  - The facility will be built on lands located at the west end of the current development shown on **Attachment 2** as Plan 65M-4683. These lands have already been transferred into Town ownership. In this location, the facility will abut the Lands as shown in Attachment 2
  - The facility is to be completed by October 2023

## Monetary Contributions

The Developer will make the following monetary contributions to the Town:

- **\$1,000,000** paid to the Town for seed funding to establish a Town green environmental fund for initiatives to reduce greenhouse gas emissions such as solar power, tree planting and geothermal technologies. The contribution will be paid in annual instalments of \$250,000 with the first payment due on January 1, 2024.
- A total contribution of **\$12,500 per residential unit** to be constructed on the Lands by the Developer paid to the Town to be used by the Town as follows:
  - \$4,000 for a green environmental fund to be established by the Town;
  - \$5,000 for a Mulock House heritage fund to be established by the Town;
  - \$2,500 to be used for multi-purpose paths and active transportation in Newmarket with an initial focus on Mulock Drive; and
  - \$1,000 for the Town's Public Art Fund.

## Commitments and Contributions under the Agreement will Bind Future Purchasers of the Lands

The Agreement contains provision that any future purchaser of the Lands will be required to assume the obligations and commitments under the agreement.

## Conclusion

Staff recommend that Council approve entering into the Agreement with the Developer the terms of which will serve to fund important projects at the Town, allow environmental land to be transferred into public ownership and secure a commitment from the Developer to design and construct an innovative and environmentally progressive complete community.

## Business Plan and Strategic Plan Linkages

- Long Term Financial Sustainability
  - maintain long-term financial sustainability while ensuring a thriving community
- Extraordinary Places and Spaces
  - creating the environment for an engaged, accessible, inclusive community
- Supporting enhanced access to diverse housing options
- Environmental Stewardship Leading proactive planning and action related to climate change and other environmental initiatives

## **Consultation**

There was extensive consultation among the Mayor, the Town's Senior Leadership Team, Legal Services staff and external legal counsel, input from Financial Services and negotiations with the Developer.

## **Human Resource Considerations**

There will be future maintenance obligations related to land transferred to the Town under the Agreement.

## **Budget Impact**

The proposed Agreement with the Developer will have a beneficial budget impact on the Town.

- \$1,000,000 for a green environmental reserve fund – while the Town does have some funding and funds for similar purposes, this is a significant enhancement. This is an area of growing concern for which additional funding would otherwise have to have been sought. A process should be established to ensure appropriate deployment of these funds.
  
- \$12,500 to be contributed per residential unit which consists of:
  - An additional \$4,000 for the green environmental reserve fund
  - \$5,000 for a new Mulock House heritage reserve fund – the details for this will need to be established
  - \$2,500 to replace funding from other sources for multi-use paths and active transportation including along Mulock Drive
  - \$1,000 to enhance the Public Art Reserve Fund
  
- Additional in-kind contributions will offset potential future capital expenditures:
  - Construction of a tennis clubhouse
  - Land and infrastructure for a community garden
  - Land and infrastructure for off-leash dog park(s)

There would be ongoing operating costs associated with these items, but they would be covered by the additional property tax revenue (assessment growth).

## **Attachments**

Attachment 1 – Map of the Lands

Attachment 2 – Map of the Lands and Plan 65M-4683

## **Approval**

Antonietta Mollicone,  
Senior Solicitor, Legal & Procurement Services

Karen Reynar  
Director, Legal & Procurement Services

Peter Noehammer  
Commissioner, Development and Infrastructure Services

Ian McDougall  
Chief Administrative Officer

## **Contact**

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