

COMMITTEE REPORT
COMMUNITY PLANNING & DEVELOPMENT DEPARTMENT
Monday, January 13, 2020

Subject: Removal of Holding Symbol & Execution of the Subdivision Agreement for Saffron Meadows Phase 2 (File No. 26T19-02014)

Recommendation:

THAT Committee receive Report #2020-0008 and recommend to Council:

THAT Council direct staff to prepare the By-laws to remove the holding symbol and authorize execution of the Subdivision Agreement for final approval of the Saffron Meadows Phase 2 Subdivision.

Background:

The Saffron Meadows Phase 2 subdivision is located on property on the west side of Rice Road (Regional Road 54), south of Acacia Road (refer to Figure 1).and immediately south of Saffron Meadows Phase 1 subdivision in the East Fonthill neighbourhood.



Figure 1: Subdivision Location

On December 15, 2016, Council granted draft approval for the plan of subdivision, subject to a number of conditions. The developer elected to register the subdivision in stages and on May 7, 2018, Council approved execution of the subdivision agreement for Phase 1 of the subdivision which is currently under construction. The registration of Phase 2 was delayed in order to obtain a permit from the Ministry of Natural Resources (now Ministry of Environment, Conservation and Parks) for endangered species located on the Phase 2 portion of the property. This requirement was recognized in the zoning through the inclusion of a holding symbol

The Phase 2 subdivision consists of twenty-eight lots for single detached dwellings (Lots 1-28), eight blocks for street townhouse dwellings (Blocks 29-36), one block for block townhouse dwellings (Block 38), one block for environmental protection (Block 37), two blocks for a trail (Blocks 39 & 40) and one block for a road widening (Block 41) (refer to Figure 2).



The property is zoned R2-266(H), RM1-268(H), RM1-269(H), OS-272(H) and OS-273(H). The zones permit the uses proposed in the draft plan of subdivision subject to removal of the Holding symbol.

Analysis:

Policy Review Planning Act

Section 3 of the Planning Act requires that, in exercising any authority that affects a planning matter, planning authorities “shall be consistent with the policy statements” issued under the Act and “shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be”. Section 51 (26) of the Planning Act indicates that a municipality may enter into agreements imposed as a condition to the approval of a plan of subdivision and the agreements may be registered against the land to which it applies and the municipality is entitled to enforce the provisions of it against the owner and, subject to the Registry Act and the Land Titles Act, any and all subsequent owners of the land. Section 51 (43) of the Act states at any time before the approval of the final plan of subdivision, under subsection (58), there may be the appeal of any of the conditions to the Local Planning Appeals Tribunal (LPAT). Section 51 (58) of the Act outlines that the approval authority may, if satisfied that the plan is in conformity with the approved draft plan and that the conditions of approval have been or will be fulfilled, approve the plan of subdivision and, once approved, the final plan of subdivision may be tendered for registration. Section 51 (59) of the Act provides if a final plan of subdivision is approved under subsection (58), but is not registered within 30 days of the date of approval, the approval authority may withdraw its approval. The Overall Benefit Permit related to the endangered species on the Phase 2 property was issued by the Ministry of Environment, Conservation and Parks on November 5, 2019. As a result, staff can support removal of the holding symbol and clearance of the corresponding condition of draft plan approval. All other conditions of draft plan approval have been, or will be, fulfilled and are appropriately addressed in the subdivision agreement.

The conditions remaining to be fulfilled are: the execution of the subdivision agreement, the registration of the subdivision agreement on title, the registration of the 59M (subdivision) and 59R (easement) plans and the dedication of lands (outlined in Schedule ‘B’ of the subdivision agreement) to the Town and Region of Niagara. If Council approves the execution of the subdivision agreement these outstanding conditions will be fulfilled as they are requirements of the subdivision agreement. There has not been an appeal of any of the draft approval conditions to the Local Planning Appeals Tribunal.

Schedule ‘F’ of the subdivision agreement will include a security deposit representing 2.5% of the value of the Phase 2 lands for a parkland dedication fee. Section 51.1 of the Planning Act allows the Town to require a developer to convey 5% of the land to the Town for park purposes. Alternatively, the Town may accept cash-in-lieu of the conveyance. In this case, the developer has agreed to dedicate two blocks to the Town for an off-road multi-use trail along Rice Road and to install

an asphalt pathway. Lands for a trail are generally not included as part of parkland dedication in the Town's Parkland Dedication By-law nor the Town of Pelham Official Plan as they typically are 3.0m wide mid-block connections to a park or school site, in contrast with this subdivision the trail is 6.0m and runs along the length of Rice Road and will be used for recreational purposes. If the Town were not to accept the trail as parkland dedication, it would result in the Town being required to pay fair market value for the lands. In an effort to simplify the process, staff recommend that Council accept the two blocks for the off road trail as parkland dedication (representing 2.5% of the Phase 2 lands) given that the lands do perform a recreational function and purpose. The remaining 2.5% of the fair market value of the lands is being posted as a security deposit because the applicant also owns the lands to the west and intends to dedicate lands for park purposes on that property which will be sufficient to make up the parkland dedication shortfalls in Phase 1 and Phase 2 of the subdivision. Staff also note that this large park is shown on the Land Use Plan for the East Fonthill Secondary Plan Area (Schedule A5 of the Official Plan). This approach was also used in the Phase 1 subdivision agreement.

In Planning staff's opinion that the plan is in conformity with the approved draft plan and therefore recommend that Council approve the plan of subdivision and authorize the entry into a subdivision agreement for Phase 2 of Saffron Meadows with Hert Inc.

Financial Considerations:

The legal costs for registration of the agreement are paid for by the developer through the application fees and the developer is responsible for all development related costs related to the installation of services and roadways within the subdivision.

Alternatives Reviewed:

Committee could recommend that Council not approve the removal of the holding symbol or the execution of the subdivision agreement, however, this alternative would result in appeals by the developer to the Local Planning Appeal Tribunal.

Strategic Plan Relationship: Build Strong Communities and Cultural Assets

The final approval of the Saffron Meadows Phase 2 subdivision will assist in creating a complete community in the East Fonthill neighbourhood and contribute to the mix of available housing types.

Consultation:

Clearance letters have been issued by the Region, Niagara Peninsula Conservation Authority, Town Departments as well as utilities. In addition, the Overall Benefits permit from the Ministry of Environment, Conservation and Parks with regards to the endangered species has been received in November, 2019. As a result, all conditions of draft plan approval have been satisfied and it is appropriate to grant final approval of Saffron Meadows Phase 2 and lift the holding symbol on the zoning

by-law amendment, in order to allow for the development to proceed. The Town's external legal counsel will review the subdivision agreement and plans at the time of registration.

Other Pertinent Reports/Attachments:

Report recommending draft plan approval of Saffron Meadows Subdivision in December 2016.

Ministry of Environment, Conservation and Parks Permit, November 5, 2019.

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