

Report Regarding the Execution of the Village of East Fonthill Subdivision Agreement (File No. 26T19-01014)

Executive Summary:

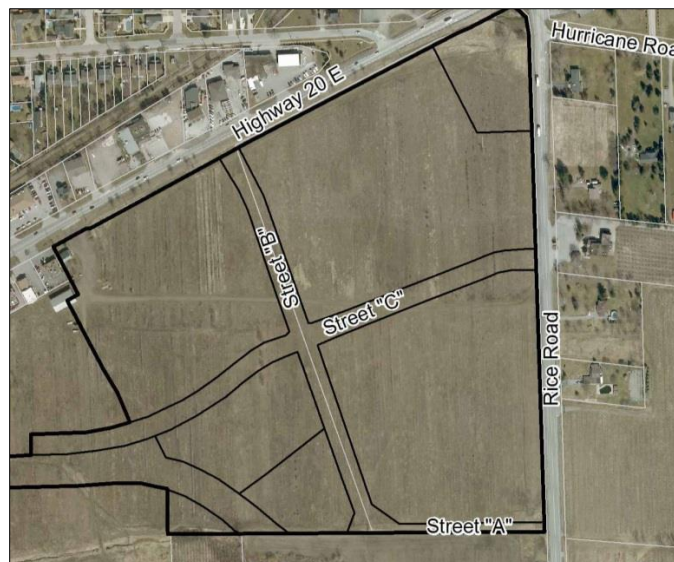
The purpose of this report is to seek a decision from Council regarding final approval of the plan of subdivision and authorizing the entry into a subdivision agreement for Village of East Fonthill Subdivision with Fonthill Gardens Inc. in order to control the development of the lands. It is acknowledged that the Town of Pelham is also a partner in this plan of subdivision.

Location:

The subject parcel is located on the south side of Highway 20 East (Regional Road 20), west of Rice Road (Regional Road 54), municipally known as 130 Highway 20 East (refer to Figure 1).

The legal description of the lands is Part of Thorold Township Lots 161,166 and 167 and Part of the Road Allowance between Lots 161 and 166, now in the Town of Pelham.

Figure 1: Location Plan



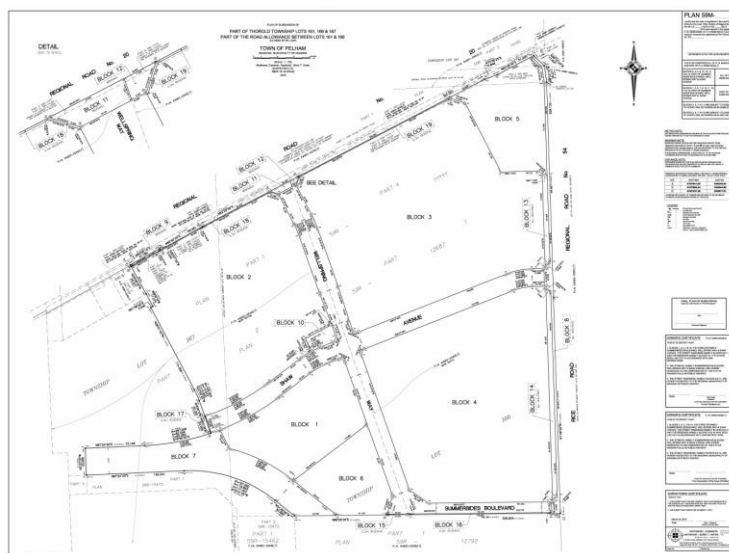
On March 31, 2014 Council approved By-law No. 3479 (2014), being a by-law to execute a Purchase Option and Cost Sharing Agreement between the Town of Pelham and Fonthill Gardens Inc. for the sharing of costs related to the construction of roadways, sewers, storm water facilities, and other services that are in excess of the standard requirements. On June 1, 2015, Council approved amending the agreement.

On September 8, 2015 Council approved a Servicing Agreement by By-law No. 3649 (2015) between the Town, the Region, and Fonthill Gardens Inc. related to intersection improvements at Wellspring Way and Highway 20 East (Regional Road 20); and, a Parkland Over Dedication Agreement by By-law No. 3650 (2015) between the Town and Fonthill Gardens Inc. related to credits for an over dedication of land for park purposes both within and outside of the subdivision.

For Council's information, all conditions of draft plan approval have been, or will be, fulfilled and are appropriately addressed in the subdivision agreement.

In addition, the following street names have been identified on the draft 59M plan: Summersides Boulevard, Wellspring Way and Shaw Avenue (refer to Figure 3). Summersides Boulevard and Shaw Avenue are named in honour of veterans. Planning staff is of the opinion that the street names are appropriate for the development.

Figure 3: Draft M Plan of Subdivision



Planning Act:

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 Ontario Municipal Board (OMB).

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.

Staff Comments:

The purpose of this report is to recommend Council approve the final plan of subdivision and authorize the entry into a subdivision agreement for the Village of East Fonthill Subdivision with Fonthill Gardens Inc. in order to control the development of the lands.

There have been two minor changes between the draft plan of subdivision and the final plan of subdivision. Firstly, Street "C" on the draft plan of subdivision, shown as Shaw Avenue on the final plan, does not extend as far eastwards as initially proposed in the draft plan, but rather ends at the limit of Block 2. When the lands to the east (that are other lands owned by Fonthill Gardens Inc.) get developed, Shaw Avenue will be extended at that time. This change is considered to be minor. The second adjustment was with regards to Block 19 shown on the draft plan of subdivision-- this block was removed from the final subdivision plan as it has been dedicated to the Town as a park block and was dedicated to the Town from Fonthill Gardens Inc. with other lands that are outside of the subdivision plan that will form part of a larger future park. As Block 19 is now in the ownership of the Town, it is appropriate that the block be removed from the final plan. This is also considered to be a minor change.

For Council's information, all conditions have been, or will be, fulfilled.

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, the payment of required fees and security deposits to the Town (outlined in Schedule 'F' of the subdivision agreement), 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.

For Council's information, there has not been an appeal of any of the draft approval conditions to the OMB.

In Planning staff's opinion, the plan is in conformity with the approved draft plan.

Planning staff recommends that Council approve the plan of subdivision and authorize the entry into a subdivision agreement for the Village of East Fonthill with Fonthill Gardens Inc.

Prepared by: Barbara Wiens, MCIP, RPP, Director of Community Planning and Development

Alternatives:

Council could choose to not approve the by-law authorizing the execution of the subdivision agreement.

Recommendation:

BE IT RESOLVED THAT, Council receive this Department of Community Planning and Development report for information as it pertains to File No. 26T19-01014 regarding the Village of East Fonthill Subdivision; **AND THAT**, Council approve the by-law authorizing the Mayor and Clerk to execute the subdivision agreement between the Town of Pelham and Fonthill Gardens Inc. for the Village of East Fonthill Subdivision.