

**Subject:** Execution of Subdivision Agreement for Park Place South (File No. 26T19-02-2020)

**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2022-278 – Execution of Subdivision Agreement for Park Place South (File No. 26T-02-2020), for information;**

**AND THAT Council direct staff to prepare the By-law to authorize execution of the Subdivision Agreement for final approval of the Park Place South Subdivision.**

**Background:**

The property is located on the north side of Summersides Boulevard east of Station Street, legally described as Part of Lots 7, 8, 9, 13 & 14, Registered Plan 717, Part of Thorold Township; Lot 166 & 167, Geographic Township of Thorold, in the Town of Pelham, Regional Municipality of Niagara (refer to Figure 1).

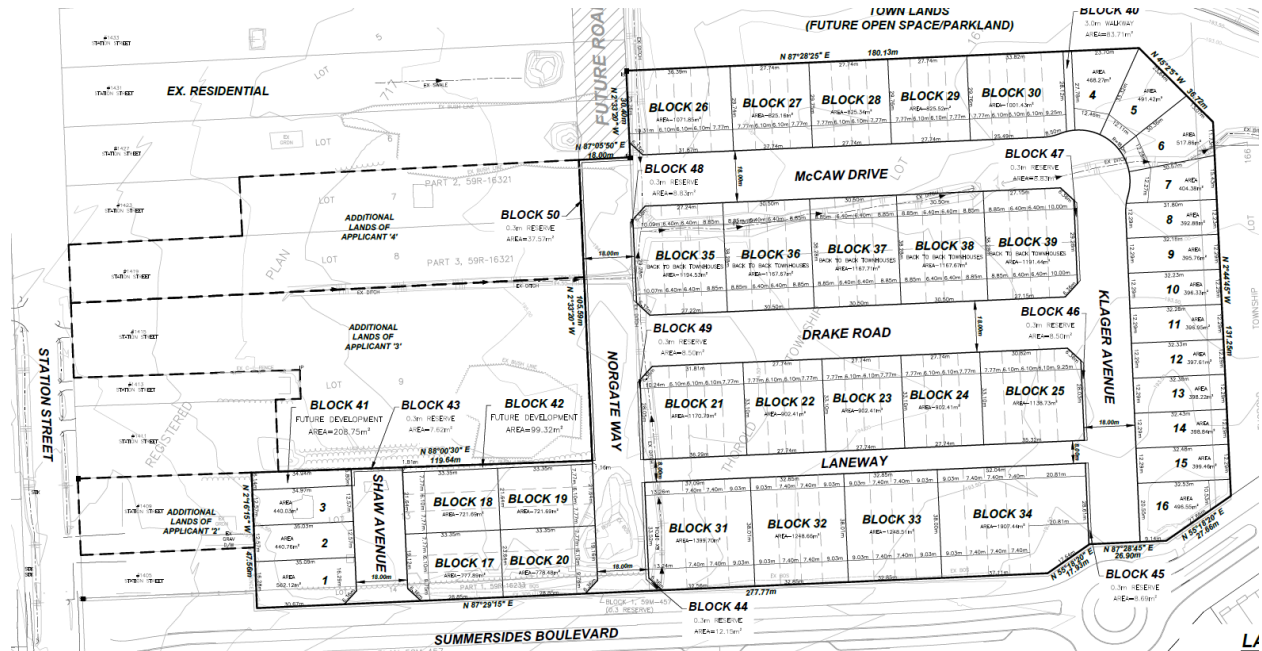
The property is a total of 4.46 ha (11.02 ac) of developable area.

*Figure 1: Location of the Property*



On May 17, 2021, Council granted draft plan approval of the subdivision subject to conditions. The draft plan of subdivision (Figure 2) generally consists of the following: 16 single detached residential lots (0.7 ha); 56 2-storey townhouses (1.257 ha; 17 rear lane townhouses (0.580 ha); 40 back-to-back townhouses (0.589 ha); associated public streets (1.301 ha); and walkway (0.008 ha).

Figure 2: Park Place South Draft Plan of Subdivision



Council also approved Zoning By-law 4354(2021) on June 7, 2021 which zoned the lands to implement the draft plan of subdivision to permit the single detached and various townhouse units with appropriate regulations.

## Analysis:

### 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 Ontario Land Tribunal (OLT).

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.

All other conditions of draft plan approval pertaining to the subdivision 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.

If Council approves the execution of the subdivision agreement these outstanding conditions will be fulfilled as they are requirements of the subdivision agreement and can only occur after Council provides final approval.

There are no appeals of any of the draft approval conditions to the Local Planning Appeals Tribunal.

It is Planning staff's opinion that the plan is in conformity with the approved draft plan, that the conditions of draft plan approval have been appropriately addressed and complied with, and therefore, staff recommend that Council approve the plan of subdivision and authorize the entry into a subdivision agreement for Park Place South with Mountainview Homes (Niagara) Ltd.

Once the plan of subdivision receives final approval and the development securities are provided to the Town, the developer will be in a position to start servicing the lands which is anticipated to occur in early 2023.

### **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 including the installation of services, utilities and roadways within the

subdivision and the provision of financial securities to the Town as a guarantee that the works will be completed in accordance with the approved plans.

**Alternatives Reviewed:**

Council could decide to not approve the execution of the subdivision agreement, however this alternative would result in appeals by the developer to the Ontario Land Tribunal and will result in additional costs to the developer as well as for the Town to defend that decision.

**Strategic Plan Relationship: Build Strong Communities and Cultural Assets**

The final approval of the Park Place South Subdivision will assist in creating a complete community in East Fonthill and contribute to a mix of available housing types.

**Consultation:**

Clearance letters have been issued by the Region, Town Departments and utilities as they relate to the design and servicing requirements for the subdivision. As a result, all conditions of draft plan approval relating to the subdivision have been satisfied and it is appropriate to grant final approval for the Park Place South Subdivision in order to allow the development to proceed. It is anticipated that construction will commence immediately upon receipt of the securities and execution of the subdivision agreement. The Town's external legal counsel will register the subdivision agreement and plans following Council approval.

**Other Pertinent Reports/Attachments:**

Report recommending draft plan approval of Park Place South Subdivision presented to Council on March 22, 2021 with supplementary reports presented on May 3, 2021 and May 17, 2021

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