

Subject: Execution of Subdivision Agreement – Emerald Trail (File no. 26T19-01-21)

Recommendation:

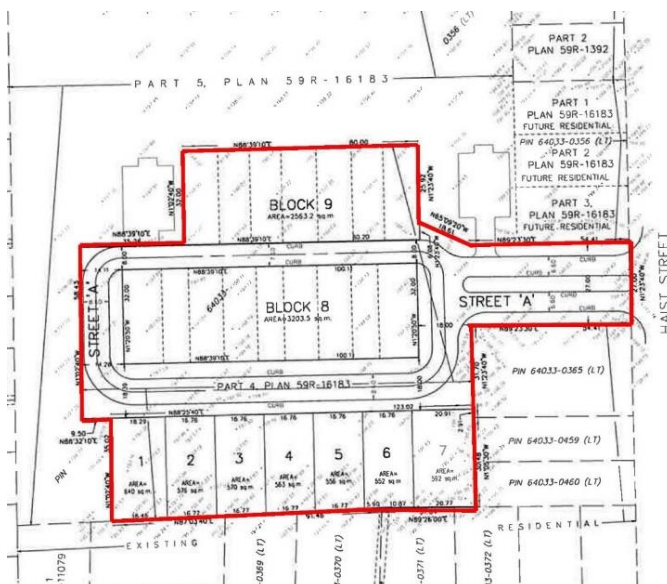
BE IT RESOLVED THAT Council receive Report #2023-62 – Execution of Subdivision Agreement – Emerald Trail (File no. 26T19-01-21);

AND THAT Council direct staff to prepare the By-law to authorize execution of the Subdivision Agreement for final approval of Emerald Trail Subdivision.

Background:

The Emerald Trail subdivision (Figure 1) is located on a portion of the former Pelham arena lands and is located on the west side of Haist Street, north of Welland Road, east of Rhodes Court and south of the Town owned park. The Emerald Trail Subdivision consists of 7 lots for single detached residential use and 2 blocks for 16 street townhouse dwellings on Street A (Accursi Crescent).

Figure 1: Draft Plan of Subdivision



On February 22, 2022, Council granted draft approval for the plan of subdivision subject to several conditions. The developer has satisfactorily addressed all the conditions of draft plan of subdivision approval therefore it is now appropriate to grant final approval of the subdivision plan and enter into the subdivision agreement.

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*, on 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 Ontario Land 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 with Lally Homes Ltd.

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 construction and installation of services, utilities, and roadways within the subdivision.

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. Given that all draft plan of subdivision conditions have been satisfactorily addressed and technical clearances have been received from review agencies there is no reason to not grant final approval of the subdivision plan and approve the execution of the subdivision agreement.

Strategic Plan Relationship: Build Strong Communities and Cultural Assets

The final approval of the Emerald Trail Subdivision will assist in creating a complete community and contribute to a mix of available housing types. The developer will also be cost sharing in the construction of the new parking lots that will serve future residents of the subdivision as well as park users.

Consultation:

Clearance letters have been issued by the Region, Town Departments, and utilities as it relates 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 Emerald Trail Subdivision 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 Emerald Trail Subdivision was approved by Council on February 7, 2022

Prepared and Recommended by:

Shannon Larocque, MCIP, RPP
Senior Planner

Barbara Wiens, MCIP, RPP
Director of Community Planning and Development

Prepared and Submitted by:

David Cribbs, BA, MA, JD, MPA
Chief Administrative Officer