

The Corporation of the City of Kawartha Lakes

Council Report

Report Number PLAN2020-019

Meeting Date: May 26, 2020

Title: Request by Aspire Sturgeon Developments Inc. to enter into an Amending Subdivision Agreement for Plan of Subdivision 638, File No. D05-35-010, Islandview Estates Subdivision

Description: Part of Lot 13, Concession 2 and Part of Lots 13 and 14, Concession 3, geographic Township of Verulam, now City of Kawartha Lakes

Ward Number: 3

Author and Title: Richard Holy, Manager of Planning

Recommendations:

That Report PLAN2020-019, **Islandview Estates Amending Subdivision Agreement**, be received;

That the Amending Subdivision Agreement for Islandview Estates, City of Kawartha Lakes, substantially in the form attached as Appendix “C” to Report PLAN2020-019 be approved by Council;

That the reduction of securities be considered once the completed works have been confirmed by Staff; and

That the Mayor and Clerk be authorized to execute any documents and agreements required by the approval of this Agreement.

Department Head:_____

Financial/Legal/HR/Other:_____

Chief Administrative Officer:_____

Background:

The approval and subdivision agreement for the development dates back to 1992. The subdivision consists of 29 lots, three open space blocks, and one block to be used for communal water access with allowance for a dock to be constructed subject to Trent-Severn Waterway approvals. The subdivision road network, ditching and utilities were initially constructed but never finished and the subdivision has never been assumed. Two dwellings were constructed many years ago but have since fallen into disrepair.

The waterfront portion of the property is part of a Provincially Significant Wetland complex. The City in conjunction with Kawartha Conservation and Department of Fisheries and Oceans took action against a previous owner for illegal site alteration activity within the environmentally protected portion of the property. The matter was never remedied through a restoration plan approved by Kawartha Conservation in 2010; however, KRCA acknowledges that the property has rehabilitated sufficiently that a restoration plan is no longer warranted.

The property was also the subject of litigation between a former owner and the City on the basis that the City did not act in an expeditious manner to allow the owner to develop the subdivision. The case against the City was dismissed as the owner failed to prove any damages caused by the City's actions.

Last year, Aspire Sturgeon Developments Inc. (ASDI) purchased 23 of the lots, including both partially finished houses, and proposes to rectify the subdivision deficiencies and develop the lots that it owns. The deficiencies include general ditch restoration, repairing and finishing the existing roads, repairing and completing the street lighting network, and completing the hydro deficiencies. Securities in the amount of \$140,000.00 will be posted by ASDI to rectify these deficiencies. Technically, ASDI will rectify the deficiencies for the entire subdivision, which also benefits the lots not under ASDI ownership.

They have also purchased the waterfront access block and have obtained approvals from Trent-Severn Waterway to construct a dock. Access to this block will be limited to the future owners of lots that ASDI currently owns.

Rationale:

The original subdivision agreement required the owner to place all of the open space blocks into communal ownership for all lot owners. This was never completed and eventually all of these blocks fell into separate private ownership. ASDI has indicated that they have attempted to purchase all of the open space blocks but have only been successful in purchasing the water access block. In order to move ahead with the development, the ASDI requires some relief from certain provisions in the agreement being:

1. Provisions of the agreement that require the developer to place all open space blocks into common ownership; and

2. A performance standard limiting the size of a pick-up truck that can be parked on any lot to a ¾ ton vehicle.

Provincial Policies:

Growth Plan for the Greater Golden Horseshoe (Growth Plan):

As this land is designated for residential development in the City of Kawartha Lakes Official Plan, this Amending Subdivision Agreement conforms to the 2019 Growth Plan.

Provincial Policy Statement (PPS):

Similarly, as this land is designated for residential development in the City of Kawartha Lakes Official Plan, this Amending Subdivision Agreement are consistent with the 2020 Provincial Policy Statement.

Official Plan Conformity:

The property is designated “Waterfront” in the City of Kawartha Lakes Official Plan. This Amending Subdivision Agreement conforms to the policies and designations in both the City of Kawartha Lakes Official Plan.

Zoning By-law Compliance:

The residential lots are zoned “Rural Residential Type One (R1) Zone”. The open space blocks are zoned “Open Space Exception One (OS-1) Zone”, which requires these lands to be maintained as a nature reserve in a natural state with no dredging or filling permitted. The water access block is zoned “Open Space Exception Two (OS-2) Zone” and shall also contain a small 6 space parking lot at least 30 metres from the high water mark. The water lot area is zoned “Open Space Exception Three (OS-3) Zone” and permits a floating style docking during the boating season. The existing subdivision layout contained in the Subdivision Agreement and proposed Amending Subdivision Agreement both comply with the relevant provisions of the Township of Verulam Zoning By-law 6-87.

Other Alternatives Considered:

No other alternatives have been considered as this Amending Subdivision Agreement conforms to the Provincial Policies, City of Kawartha Lakes Official Plan, and Township of Verulam Zoning By-law 6-87.

Financial/Operation Impacts:

The draft Amending Subdivision Agreement requires the owner to rectify all outstanding subdivision deficiencies and post \$140,000.00 in securities for performance of the works. This will allow ASDI to complete the deficiencies and proceed with the development.

The original Subdivision Agreement required the developer to pay a lump sum of \$7,000.00 in lot levies. The Amending Subdivision Agreement requires ASDI to pay the difference between that charge and the City's current Development Charge fees.

Relationship of Recommendations to the 2020 – 2023 Strategic Plan:

The Council Adopted Strategic Plan identifies these Strategic Priorities:

- Priority 1 – A Vibrant and Growing Economy
- Priority 2 – An Exceptional Quality of Life
- Priority 3 – A Healthy Environment
- Priority 4 – Good Government

The proposed Amending Subdivision Agreement aligns with these strategic priorities by providing an ability for ASDI to develop the subdivision. This provides economic opportunities for local contractors, an exceptional quality of life for new residents of the development, and continues to protect the environment.

Review of Accessibility Implications of Any Development or Policy:

The accessibility standards established in the Building Code will be shown on the subsequent construction drawings, which must be approved by the City prior to the issuance of a building permit.

Servicing Implications:

The lots will be serviced through individual well and septic systems. Stormwater management will be handled through existing roadside ditches.

Consultations:

City Solicitor
Director of Engineering and Corporate Assets
Kawartha Conservation – Ron Warne
Trent-Severn Waterway – Beth McEachern

Development Services – Planning Division Comments:

The proposed Amending Subdivision Agreement would implement the following matters.

1. It proposes to eliminate the requirement for ASDI to transfer all open space blocks into common ownership. With all of the open space blocks

now in separate private ownership, it could be impossible for any developer to reasonably assemble these lands for common ownership. The existing zoning regulates and limits the use of these open space blocks. Therefore, staff no longer feel that this is necessary and recommend that the provision be removed.

2. The original Subdivision Agreement required the owner to register a restrictive covenant on title limiting the overnight parking of a pick-up truck larger than a $\frac{3}{4}$ ton or a commercial vehicle on any lot. Staff feel that this requirement is no longer necessary and should be regulated through the existing Zoning By-law.
3. The Amending Subdivision Agreement would require ASDI to register a vacant land plan of condominium and agreement over the water access and water lot in favour of the lots owned by ASDI. This would ensure that the ownership and maintenance of these two blocks be guaranteed in perpetuity for the owners purchasing lots from ASDI. Should other lot owners wish to join the condominium corporation, they would be able to do so in the future.

Staff recognize that this Amending Subdivision Agreement doesn't cover all of the lots within this subdivision. Dealing with all landowners could have resulted in protracted discussions. In order to allow ASDI to move forward with their plans, it was determined that the Amending Subdivision Agreement should only deal with the lands owned by ASDI as they have agreed to deal with all of the subdivision deficiencies. Should other lot owners wish to come forward to request similar amendments, staff would similarly offer the same amending agreement.

Conclusions:

City staff has completed their review of the proposal and endorses the proposed Amending Subdivision Agreement and endorses Appendix "C". We support the recommendations set out in this Report PLAN2020-019 and respectfully recommend that the matter be APPROVED by Council.

Attachments:

The following attached documents may include scanned images of Appendices, maps and photographs. If you require an alternative format, please contact Richard Holy, Manager of Planning at 705-324-9411 x 1246.

Appendix "A" – Location Map



PLAN2020-019 -
Appendix A.pdf

Appendix “B” – Draft M-Plan



PLAN2020-019 -
Appendix B.pdf

Appendix “C” – Draft Subdivision Agreement



PLAN2020-019 -
Appendix C.pdf

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Department Head: Chris Marshall, Director of Development Services

Department File: D05-35-010