

Council Report

Report Number: PLAN2022-010

Meeting Date: February 22, 2022

Title: **Condominium Description Exemption Application by 2594441 Ontario Inc.**

Description: Application for Condominium Description Exemption for Two Common Area Blocks within the Kings Wharf Estates Subdivision, King's Wharf Road and Pigeon Lake Road, Geographic Township of Emily
File No. D04-2002-001

Author and Title: Richard Holy, Director of Development Services

Recommendations:

That Report PLAN2022-010, **Condominium Description Exemption Request by 2594441 Ontario Inc.**, File No. D04-2022-001, be received;

That the Application for Condominium Description Exemption filed by LLF Lawyers on behalf of 2594441 Ontario Inc. for two common area blocks, being Blocks 22 and 23 within Plan of Subdivision 57M-808, located within Part Lots 21 and 22, Concession 13, Geographic Township of Emily, be approved by Council; and

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

Department Head: _____

Financial/Legal/HR/ Other: _____

Chief Administrative Officer: _____

Background:

This development is located at the southeast corner of King's Wharf Road and Pigeon Lake Road south of Bobcaygeon (See Appendix A). The original owner, Bill O'Neill, filed Zoning By-law Amendment and Draft Plan of Subdivision applications in 2008. These applications were subject to extensive agency and public consultation under the Planning Act as well as an Open House. Issues relating to groundwater, traffic and environmental issues were reviewed by commenting agencies or peer reviewed by external consultant where necessary. Council's 2012 approval of the 21 lot subdivision was appealed to the Ontario Municipal Board, which subsequently issued its approval in 2013.

Owner:	2594441 Ontario Inc.
Agent:	Joe Grant, LLF Lawyers
Legal Description:	Part Lots 21 & 22, Concession 13, Geographic Township of Emily
Official Plan:	"Waterfront" and "Environmental Protection" on Schedule "A" to the City of Kawartha Lakes Official Plan
Zoning:	"Environmental Protection (EP) Zone", "Holding - Environmental Protection Exception Two {EP-2(H)} Zone", "Holding - Environmental Protection Exception Three {EP-3(H)} Zone", "Holding - Agricultural Exception Twenty-Six {A1-26(H)} Zone", "Holding - Rural Residential Type Three {(RR3(H)} Zone", "Holding - Rural Residential Type Three Exception Nine {(RR3-9(H)} Zone", "Rural Residential Type Three Exception Ten {(RR3-10} Zone", "Holding - Rural Residential Type Three Exception Ten {(RR3-10(H)} Zone", "Holding - Rural Residential Type Three Exception Eleven {(RR3-11(H)} Zone", and "Holding - Rural Residential Type Three Exception Twelve {(RR3-12(H)} Zone" in the Township of Emily Zoning By-law 1996-30.
Site Size:	18.4 hectares (45.5 acres)
Site Servicing:	All lots are serviced with private well and septic systems. Two stormwater management ponds have been constructed to handle stormwater generated by the subdivision.
Existing Uses:	The property is being developed for waterfront residential purposes.

Adjacent Uses: North: Lakeview Estates shoreline community and agricultural
 South and West: Agricultural
 East: Pigeon Lake

Rationale:

There are two blocks within Subdivision Plan 57M-808 that need to be transferred into common ownership. Block 22 is located at the southwest corner of Lakeview Crescent and King's Wharf Road. Block 23 is a waterfront access block located on Pigeon Lake, which has approvals for a small dock and gazebo. The agent is proposing a common elements condominium that would create parcels of tied land, allowing the owners of the 21 lots equal access to both blocks.

Joe Grant of LLF Lawyers, on behalf of 2594441 Ontario Inc., has filed an application for a Condominium Description Exemption under C.19, s.9(3) and (6) of the Condominium Act, Ontario to exempt the description of the 2594441 Ontario Inc. development from Sections 51 and 51.1 of the Planning Act, Ontario and allow for the registration of the Condominium Plan. The applicable Acts allow for exemptions provided that certain planning criteria are met such as conformity with the Official Plan and applicable Zoning By-law, that the development has previously undergone a public consultation process under the Planning Act and that the development has had the benefit of a comprehensive municipal review through a planning application such as subdivision approval.

The applicant submitted the proposed draft Victoria Common Elements Condominium Plan for consideration (See Appendix "B").

Provincial Policies:

Growth Plan for the Greater Golden Horseshoe, 2020:

The Growth Plan provides that rural growth should be directed towards rural settlement areas. The proposed development will be serviced by roads, private water and septic servicing, and municipal stormwater management services. Conformity with the Growth plan was demonstrated through the site specific zoning by-law amendment and subdivision approval for the development.

Provincial Policy Statement, 2020:

The Provincial Policy Statement (PPS) provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. The PPS requires planning authorities to manage and direct land use to achieve efficient and resilient development and land use patterns. Consistency with the PPS was demonstrated through the site specific zoning by-law amendment and subdivision approval for the development.

Other Alternatives Considered:

The applicant could proceed through the draft plan of condominium approval process. Given that the project has been reviewed by the public and various agencies, a further process would not be recommended.

Alignment to Strategic Priorities:

The City's 2020-2023 Kawartha Lakes Strategic Plan identifies the following four main goals:

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

This project aligns with several goals contained in the City's Strategic Plan by protecting the natural features of the property from development. The project also offers waterfront lifestyle options for the new homeowners. Finally, the development contributes to the City's vibrant economy by providing new jobs and growth to the City.

Financial/Operation Impacts:

There are no financial implications regarding Council's consideration respecting the approval or refusal of the 2594441 Ontario Inc. request. The decision to approve or refuse the application for description exemption cannot be appealed.

Servicing Implications:

The existing development is serviced through private well and septic systems. Two stormwater management facilities have been constructed for the project to deal with stormwater generated from the development. This application has no impact on these services.

Consultations:

No further consultations were undertaken at his time.

Development Services Planning Division Comments:

Section 9 (3) and (6) of the Condominium Act, Ontario allows for Condominium Description Exemptions from Sections 51 and 51.1 of the Planning Act, Ontario provided that the following Planning criteria are met:

Conformity with the Official Plan and the applicable Zoning By-law:

The property is located within the "Waterfront" land use designation, which permits the 21 lot subdivision. The environmentally sensitive portions of the property are designated "Environmental Protection", which protects the natural features located on this property. The development conforms with the City's Official Plan policies.

The property is zoned "Environmental Protection (EP) Zone", "Holding - Environmental Protection Exception Two {EP-2(H)} Zone", "Holding - Environmental Protection Exception Three {EP-3(H)} Zone", "Holding - Agricultural Exception Twenty-Six {A1-26(H)} Zone", "Holding - Rural Residential Type Three {(RR3(H)} Zone", "Holding - Rural Residential Type Three Exception Nine {(RR3-9(H)} Zone", "Rural Residential Type Three Exception Ten {(RR3-10} Zone", "Holding - Rural Residential Type Three Exception Ten {(RR3-10(H)} Zone", "Holding - Rural Residential Type Three Exception Eleven {(RR3-11(H)} Zone", and "Holding - Rural Residential Type Three Exception Twelve {(RR3-12(H)} Zone" in the Township of Emily Zoning By-law 1996-30. These zones conform with the City's Official Plan and together work to implement the development of the lots and protect the environmental features on the property.

The development has previously undergone a public consultation process under the Planning Act.

The property was the subject of Zoning By-law Amendment and Draft Plan of Subdivision applications in 2008 and to a public consultation process under the Planning

Act as well as an Open House. Council's 2012 approval of the application was appealed with the development receiving its approval from the Ontario Municipal Board in 2013.

The development has had the benefit of a comprehensive municipal review through a planning application such as subdivision approval.

A Subdivision Agreement between the City and 2594441 Ontario Inc. was registered on May 26, 2020 and receipted as KL163817. The City is in receipt of the appropriate securities to ensure completion of the site works.

Conclusions:

The applicant has demonstrated that the subdivision has been the subject of appropriate planning applications, public consultation, and municipal review that provide support for the Condominium Description Exemption request. Staff respectfully recommends that the application be approved.

Attachments:

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

Appendix A – Location Map



PLAN2022-010 -
Appendix A.pdf

Appendix B – Draft Victoria Common Elements Condominium Plan



PLAN2022-010 -
Appendix B.pdf

Department Head email: rholy@kawarthalakes.ca

Department Head: Richard Holy, Director of Development Services

Department File: D04-2022-001