



## Council Report

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<b>Report Number:</b>	<b>PLAN2023-017</b>
<b>Meeting Date:</b>	April 18, 2023
<b>Title:</b>	<b>Condominium Description Exemption Application by Muskoka D&amp;M Corporation</b>
<b>Description:</b>	Application for Condominium Description Exemption for 86 Apartment and Townhouse Dwelling Units on 19 and 39 West Street North, geographic Township of Fenelon
<b>Author and Title:</b>	Richard Holy, Director of Development Services

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### Recommendations:

**That** Report PLAN2023-017, **Condominium Description Exemption Request by Muskoka D&M Corporation**, Application D04-2023-002, be received;

**That** the Application for Condominium Description Exemption filed by Muskoka D&M Corporation for a townhouse and apartment development consisting of 86 dwelling units on 19 and 39 West Street North, respecting Firstly: Lots 53 & 54, Plan 190, save and except Part 2 of Plan 57R-10954; Secondly: Part of Lot 23, Concession 9, Fenelon, Parts 1 & 2 of Plan 57R-2352 and Parts 1 & 2 of Plan 57R-8353, save and except Part 1 of Plan 57R-10954; Thirdly: Part of Third Street Plan 190, Part 3 of Plan 57R-8353, (Closed by R380930), save and except Parts 1 & 2 of Plan 57R-10941, geographic Township of Fenelon, 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:

The property is located on West Street North in Fenelon Falls on the southern edge of Cameron Lake (see Appendix 'A'). The project was granted site plan approval on September 15, 2022 and the agreement was registered on October 03, 2022 and receipted as KL197703. Since the buildings are under construction, the developer is requesting an exemption from the normal condominium approval process as the City has already entered into a site plan agreement with the developer for the project, through which the City has secured all necessary development obligations including land transfers for roadways, parkland payments, and securities for site development.

Owner: Muskoka D&M Corporation

Applicant: Same as above

Legal Description: Firstly: Lots 53 & 54, Plan 190, save and except Part 2 of Plan 57R-10954; Secondly: Part of Lot 23, Concession 9, Fenelon, Parts 1 & 2 of Plan 57R-2352 and Parts 1 & 2 of Plan 57R-8353, save and except Part 1 of Plan 57R-10954; Thirdly: Part of Third Street Plan 190, Part 3 of Plan 57R-8353, (Closed by R380930), save and except Parts 1 & 2 of Plan 57R-10941, geographic Township of Fenelon

Designation: 'Urban Settlement Area' - Fenelon Falls Fringe and 'Environmental Protection' on Schedule A-5 of City of Kawartha Lakes Official Plan

Zone: 'Residential Multiple (RM) Zone' and 'Environmental Protection Exception Eight (EP-8) Zone' in the Township of Fenelon Zoning By-law 12-95, as amended

Lot Area: Approximately 1.96 hectares [4.84 acres]

Site Servicing: Full municipal water, sanitary, and stormwater servicing

Existing Uses: Townhouse and apartment development consisting of 86 dwelling units under construction

Adjacent Uses: North: Cameron Lake  
East: Residential  
South: Residential  
West: Residential and commercial

## **Rationale:**

The property is located on West Street North in Fenelon Falls and has shoreline frontage on Cameron Lake. Muskoka D&M Corporation is in the process of constructing the 86 dwelling units in the form of two apartment buildings and two rows of townhouses in the form of a condominium (see Appendix 'B'). Muskoka D&M Corporation 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 Muskoka D&M Corporation 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, the development has previously undergone a public consultation process under the Planning Act and the development has had the benefit of a comprehensive municipal review through a planning application such as Subdivision Approval.

The request was submitted together with a draft condominium description to be used as a basis for the condominium description (Appendix 'C').

## **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 condominium exemption request conforms to the 2020 Growth Plan since all of the primary policy considerations have been addressed through the site plan agreement.

### **Provincial Policy Statement (PPS):**

Similarly, as this land is designated for residential development in the City of Kawartha Lakes Official Plan, this condominium exemption request is consistent with the 2020 Provincial Policy Statement since all of the primary policy considerations have been addressed through the site plan agreement.

## **Official Plan Conformity:**

The property is designated 'Urban Settlement' – Fenelon Falls Fringe in the City of Kawartha Lakes Official Plan. This condominium exemption request conforms to the policies and designations in both the City of Kawartha Lakes Official Plan since all of the primary policy considerations have been addressed through the site plan agreement.

## **Zoning By-law Compliance:**

The property is zoned 'Residential Multiple (RM) Zone' and 'Environmental Protection Exception Eight (EP-8) Zone' in the Township of Fenelon Zoning By-law 12-95. The RM zone permits apartment and townhouse dwellings while the EP-8 zone protects the waterfront along Cameron Lake. The proposed condominium description request will comply with the relevant provisions of the Township of Fenelon Zoning By-law 12-95, as amended.

## **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. No other alternatives have been considered at this time.

## **Alignment to Strategic Priorities:**

The City's 2020-2023 Kawartha Lakes Strategic Plan identifies the following priorities:

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

This development aligns with the Vibrant and Growing Economy priority by increasing the supply of new housing options to attract new residents in the City of Kawartha Lakes.

## **Financial/Operation Impacts:**

There are no financial implications regarding Council's consideration respecting the approval or refusal of the Muskoka D&M Corporation request. The decision to approve or refuse the application for description exemption cannot be appealed.

## **Servicing Implications:**

The development is serviced by full municipal water sanitary sewer, and stormwater services. The development has had the benefit of an executed site plan agreement and will be developed in accordance with current City servicing standards.

## **Consultations:**

No further consultations were undertaken at this 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 'Urban Settlement' – Fenelon Falls Fringe land use designation, subject to Sections 18.10.2, which permits the 7 townhouse blocks and two five-storey apartment buildings for a total of 86 dwelling units. The environmentally sensitive portions of the property are designated 'Environmental Protection', subject to Sections 17.8.2, which protects the natural features along the shoreline. The development conforms with the City's Official Plan policies.

The property is zoned 'Residential Multiple (RM) Zone' and 'Environmental Protection Exception Eight (EP-8) Zone' in the Township of Fenelon Zoning By-law 12-95. These zones conform with the City's Official Plan and together work to implement the development and protect the environmental features along the shoreline.

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

The property was the subject of an Official Plan Amendment and Zoning By-law Amendment applications in 2018, which was applied for and subject to the public consultation process under the Planning Act on March 6, 2019. Council's approval of the application was not appealed.

### **The development has had the benefit of a comprehensive municipal review through a planning application such as Site Plan Approval.**

A Site Plan Agreement between the City and Muskoka D&M Corp., People's Trust Company, and The Sovereign General Insurance Company was registered on October 03, 2022 and receipted as KL197703. The City is in receipt of the appropriate securities to ensure completion of the required site works.

The applicant has demonstrated that the above planning criteria have been met and that upon Council's approval of the application, the Certificate of Exemption may be signed by the Director and the Condominium Plan registered.

### **Conclusions:**

The applicant has demonstrated that this 86-unit residential condominium development has been the subject of appropriate planning applications, public consultation, and municipal review that provide support for the Condominium Description Exemption request. Since a further condominium approval process would bring no additional public benefit, 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



PLAN2023-017  
Appendix A.pdf

#### Appendix 'B' – Development Layout



PLAN2023-017  
Appendix B.pdf

#### Appendix 'C' – Draft Reference Plan for Condominium Description



PLAN2023-017  
Appendix C.pdf

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**Department Head:** Richard Holy, Director of Development Services

**Department File:** D04-2023-002