

**AFFECTS
WARD 15**

CITY OF HAMILTON

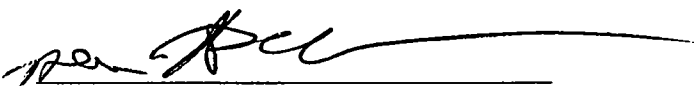
*Corporate Services Department
Legal Services Division*

Report to: Mayor and Members of the Committee of the Whole	Submitted by: Peter A. Barkwell City Solicitor
Date: October 14, 2008	Prepared by: Art Zuidema Extension 4638

**SUBJECT: Ontario Municipal Board Hearing for Silverwood Homes Limited
L508010**

RECOMMENDATION:

That Council supports a partial settlement of Ontario Municipal Board appeals including Official Plan Amendment No. 109 (the Waterdown North Secondary Plan) as well as other development related appeals including the approval of a Draft Plan of Subdivision (25T-200621) and zoning for lands located on Parkside Drive, (Part of Lot 11, Concession 4),(OMB PL070395), in the former Town of Flamborough and that staff prepare appropriate Draft Plan of Subdivision Conditions and provisions for a site specific Zoning By-law, including conditions and provisions to specifically reflect Council's continued position that the development proposed is premature from a traffic capacity perspective.


Peter A. Barkwell
City Solicitor
Legal Services & Corporate Counsel

EXECUTIVE SUMMARY:

An Ontario Municipal Board Hearing concerning three matters including the Waterdown North Secondary Plan, (OPA 109), a plan of subdivision and related zoning for the development proposed is set to convene October 27, 2008.

In conjunction with previous Planning and Economic and Development Committee consultation, staff have been negotiating with Silverwood Homes Limited to reduce the scope and complexity of matters currently before the Ontario Municipal Board .

The negotiations have been fruitful as the developer has proposed revisions to the subdivision layout which are supported from a staff perspective.

Staff wish to finalize a settlement of a revised subdivision layout (September 25, 2008) through the preparation of appropriate subdivision conditions and zoning that is harmonious with the plan proposed.

Consistent with previous direction of Council, the subdivision conditions and zoning will include parameters to indicate that while the subdivision layout and zoning are viewed to be reflective of the ultimate development desired for the property, that the timing of the development remains in issue.

BACKGROUND:

Silverwood Homes Limited (Silverwood) have appealed the City's passage of OPA 109, as well as the City's refusal or neglect to approve a plan of subdivision and harmonious zoning for lands it owns, fronting onto Parkside Drive, within the North Waterdown area.

Other developers wishing to develop in the North Waterdown area and stakeholders impacted by the development proposal including MC2 Homes, Landmart Realty Corp., Amedeo DiMarco, Sun-Canadian Pipe-line, and the City of Burlington have sought and received Party status before the Ontario Municipal Board on this matter.

A four week Ontario Municipal Board hearing is set to convene on October 27th, 2008.

In September of this year staff reported to Council on this matter through the Planning and Economic Development Committee with the following resultant resolution being approved by Council:

"That the City of Hamilton considers the developments proposed within appeals initiated to the Ontario Municipal Board, including those of Silverwood Homes Limited, Landmart Realty Corp., and MC2 Homes, for lands in Waterdown North to be premature from a traffic capacity perspective;

And that City staff be directed to investigate potential interim measures for development in Waterdown including, but not limited to, a City initiated Official Plan Amendment to modify the existing staging policies, an interim control by-law and a transportation allocation program, and to report back to Committee thereafter, on the analysis of the options, and to recommend a strategy to address traffic capacity infrastructure constraints"

Consistent with their report to the Planning and Development Committee in September, City staff have continued to negotiate for a plan of subdivision which will allow for harmonious zoning and a development concept in keeping with the vision of the City through the passage of OPA 109 (the North Waterdown Secondary Plan). The most recent subdivision layout proposed by the developer will require a minor amendment to the density provisions of the Secondary Plan which is also currently before the Ontario Municipal Board.

ANALYSIS/RATIONALE:

The partial settlement will focus the hearing significantly whilst moving the development agenda in a forward direction.

ALTERNATIVES FOR CONSIDERATION:

In regard to the most recent urban expansion area for the former Town of Flamborough, frequently referenced as the OPA 28 land, this is the first time that the City of Hamilton has taken the position that the existing traffic infrastructure in the Waterdown community is not able to accommodate additional development in accordance with the OPA 28 Official Plan policies for development.

The City's position on traffic infrastructure capacity will be vigorously tested through the adversarial process before the Board by the proponent developer and the other developers who also wish to develop lands in the OPA 28 area.

In regard to the matters before the Ontario Municipal Board, staff proposed to address the prematurity of the development through conditions of subdivision approval and zoning provisions. This will ensure that if the Board does not agree with the City's position on traffic infrastructure capacity constraints, that the City will have had input on the subdivision layout and zoning determination process.

An alternative approach, to hold the line on the review of subdivision and zoning, based on traffic infrastructure capacity constraints, might result, if the Board does not agree with the City's position, in the approval of a subdivision layout and zoning that is not seen as desirable from the City's perspective.

Given the pending hearing date and the hearing procedure preparation process, the recommended course of action is seen by staff as the most appropriate course of action to follow.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

The partial settlement will reduce the extent of the City's resource expenditure on this matter including staff time and consultant fees.

POLICIES AFFECTING PROPOSAL:

N/A

RELEVANT CONSULTATION:

Planning, Public Works and Legal staff have been and continue to be involved in this matter. Consultation on the most recent and recommended subdivision layout will occur with internal and external agencies through the subdivision review process.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. Yes No

Environmental Well-Being is enhanced. Yes No

Economic Well-Being is enhanced. Yes No

Does the option you are recommending create value across all three bottom lines?
 Yes No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? Yes No