



## THE CORPORATION OF THE TOWN OF AMHERSTBURG

### OFFICE OF DEVELOPMENT SERVICES

**MISSION STATEMENT:** *Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.*

<b>Author's Name:</b> Sarah French	<b>Report Date:</b> April 12, 2023
<b>Author's Phone:</b> 519 736-5408 ext. 2145	<b>Date to Council:</b> April 24, 2023
<b>Author's E-mail:</b> sfrench@amherstburg.ca	<b>Resolution #:</b>

**To:** Mayor and Members of Town Council

**Subject:** Mulberry Court Subdivision Agreement File No. 37-T-22008

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#### 1. **RECOMMENDATION:**

It is recommended that:

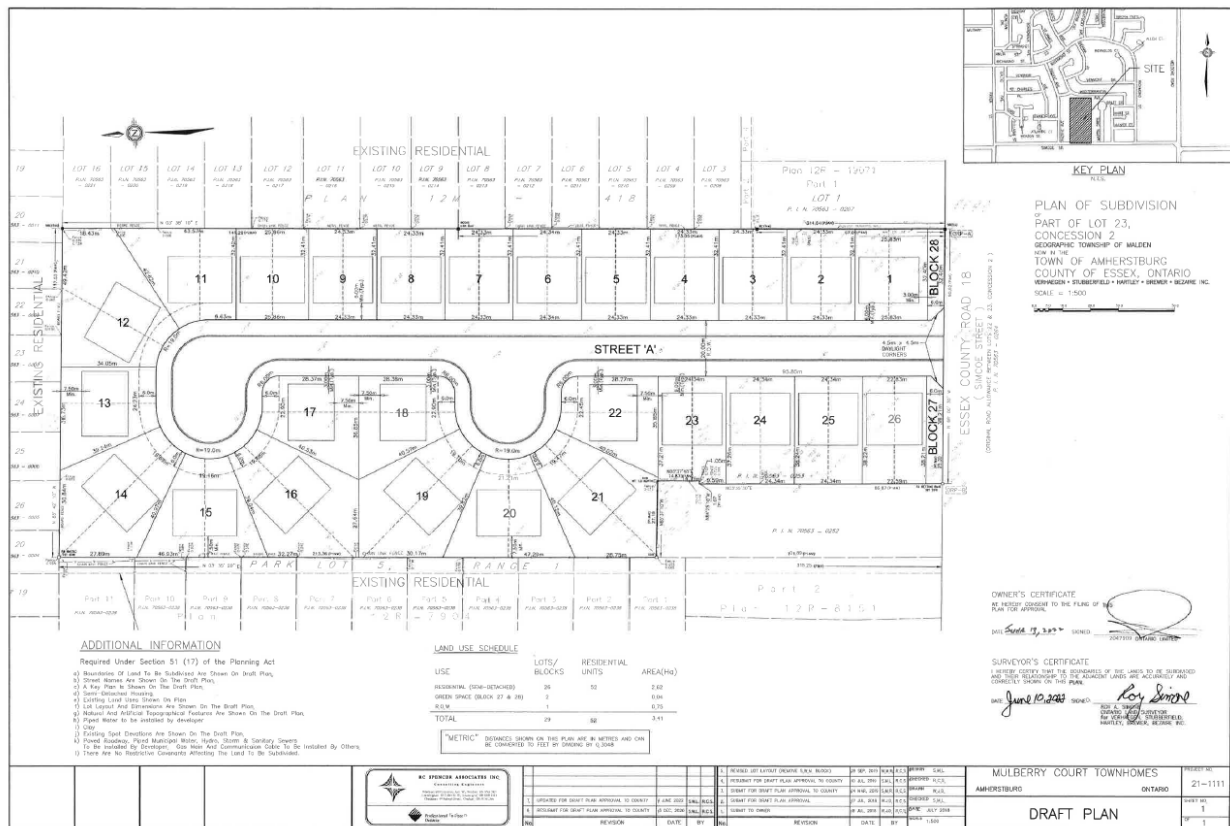
1. The Corporation of the Town of Amherstburg **ENTER INTO** a Subdivision Agreement with 2047909 Ontario Limited for Mulberry Court; and,
2. **By-law 2023-054** being a By-law to authorize the signing of a Subdivision Agreement for Mulberry Court be taken as having been read three times and finally passed and the Mayor and Clerk **BE AUTHORIZED** to sign same.

#### 2. **BACKGROUND:**

The Town is in receipt of a request from 2047909 Ontario Limited to execute a subdivision agreement for Mulberry Court Subdivision. During the Plan of Subdivision approval process, the developer undertook the necessary background studies and work to obtain the appropriate zoning to permit the proposed residential development. The property was rezoned from Residential Second Density (R2) Zone to Special Provision Residential Second Density (R2-6) Zone, approved September 23, 2019 through By-law No. 2019-047.

The Subdivision Agreement applies to a 3.41 hectare (8.43 acres) parcel of land generally located on the north side of Simcoe Street (County Rd 18), west of Martin Crescent, known municipally at 514, 528 and V/L Simcoe Street. An aerial map has been provided in the attachments. The draft plan of subdivision consists of 28 lots for 52 semi-detached dwellings in Mulberry Court Subdivision (County of Essex File No. 37-T-22008) and two blocks for road widening. Stormwater management facilities are to be provided in the

regional stormwater pond proposed to be located in the future Rocksedge Subdivision development.



**Figure 1: Draft Plan of Subdivision**

On September 12, 2022, Council resolved that Administration be directed to advise the approval authority (County of Essex) that Council supports draft plan approval, subject to satisfactory conditions for Mulberry Court Subdivision.

The County of Essex granted draft plan approval February 22, 2023, subject to a number of conditions. The conditions include a provision that the applicant enter into a Subdivision Agreement to satisfy all of the requirements, financial and otherwise, of the Town concerning the installation of roads, services, drainage, the dedication and naming of streets, the granting of easements and parkland and other matters.

On April 11, 2023, Council approved the use of the street name Mulberry Court for the subdivision.

The County of Essex is the approval authority for Plans of Subdivisions. As part of the conditions of approval the developer is required to enter into the necessary agreement(s) with the Town registered against the said lands.

### 3. **DISCUSSION:**

#### Planning Act (R.S.O. 1990)

The proposal is consistent with Part I Section 2 of the Planning Act which requires that Council have regard to matters of provincial interest including (the following are excerpts from Section 2 of the Planning Act that apply to this development):

- the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;
- the orderly development of safe and healthy communities;
- the adequate provision of a full range of housing, including affordable housing;
- the appropriate location of growth and development;
- the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians;
- the promotion of built form that,
  - o is well-designed,
  - o encourages a sense of place, and
  - o provides for public spaces that are of high quality, safe, accessible, attractive and vibrant;

The development is located within the primary settlement area and can be considered infill development. It is providing for intensification of under utilized land within the existing serviced area. The property is located a walkable distance from existing schools (approximately 600 m from North Star high school and 750 m from St. Jean-Baptiste elementary school) and will promote walkability.

#### Provincial Policy Statement (PPS)

The application is consistent with the PPS, specifically Section 1.1.3 Settlement Areas, in that the development promotes the efficient use of existing designated land and promotes cost-effective development patterns and standards to minimize land consumption and servicing costs.

#### County Official Plan (COP)

The application conforms to the policies of the County Official Plan. The proposed plan of subdivision is located within the Primary Settlement Area as designated in the County's Official Plan.

#### Town of Amherstburg Official Plan (OP)

The subject lands are designated Low Density Residential in the OP which allows for residential development. Therefore, the proposal conforms to the basic land use policies of the OP. The developer's biologist has been in contact with the Ministry of Natural Resources and Forestry (MNRF) and the Essex Region Conservation Authority (ERCA) and through correspondence has determined that the development was not likely to contravene the *Endangered Species Act*.

## Zoning By-law

The subject lands are zoned Special Provision Residential Second Density (R2-6) zone as approved by By-law 2019-047, approved on September 23, 2019. The zoning permits single detached, semi-detached and duplex dwellings. The proposed semi-detached dwelling lots conform to the R2-6 zoning.

The subject development conforms to Zoning By-law 1999-52, as amended.

## Plan of Subdivision

A Plan of Subdivision is a legal survey (M-Plan) that divides a parcel of land into smaller lots or blocks and secures the developer's obligations through a Subdivision Agreement with the Town.

The developer/owner is required to sign a Subdivision Agreement with the Town prior to registration of the plan. Also, prior to registration of the plan, the owner must also fulfill all conditions provided in the County's Notice of Decision.

The recommended Subdivision Agreement under By-law 2023-054 (attached) contains the standard provisions utilized by the Town to address servicing, collection of development charges and community benefit charges, timing for the issuance of building permits, as well as special requirements unique to the Mulberry Court development. The attached Subdivision Agreement clearly states the developer's obligations to the Municipality including:

- Provision of appropriate securities to guarantee the developer's obligations under the Subdivision Agreement;
- Provision of a security to ensure the planting of trees by the developer to enhance the streetscape;
- Provision of public liability and property insurance during the period of construction;
- Installation of all stormwater management measures to the satisfaction the Town and the Essex Region Conservation Authority;
- Compliance with the Town's current Development Manual for the construction of roads, sewers, watermains, stormwater, sidewalks, lighting, fencing and other services in the subdivision;
- Requirement for the conveyance of easements as may be necessary for drainage and utilities;
- Developers responsibilities regarding damages;
- Provision for grass and weed maintenance until the transfer of the lots; and,
- Provision for the dedication of land or cash-in-lieu for parkland.

## **4. RISK ANALYSIS:**

Approval of the Subdivision Agreement will form one component of the completion of requirements for final approval of the subdivision approval process under the *Planning Act*. The Subdivision Agreement must be registered against the lands to which it applies prior to the final registration of the Plan of Subdivision.

**5. FINANCIAL MATTERS:**

The draft Subdivision Agreement outlines responsibilities and obligations of the parties, including financial obligations of the Developer to design, construct and install services, etc. at its own expense, to provide securities, and all pay fees and charges related to the development.

The costs associated with the applications and planning processes are the responsibility of the developer. Once developed, residential taxes will be levied by the Town for each residential dwelling unit built in the subdivision.

**6. CONSULTATIONS:**

Todd Hewitt, Manager of Engineering and Operations  
Angelo Avolio, Manager of Building Services

**7. CONCLUSION:**

Administration is recommending approval of the Subdivision Agreement with 2047909 Ontario Limited for Mulberry Court Subdivision. The proposed Subdivision Agreement complies with the Town's planning documents, incorporates the conditions of draft plan approval and addresses site servicing details and other issues in accordance with the requirements of the Planning Act.



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Sarah French  
**Planner**

## Report Approval Details

Document Title:	Mulberry Court Subdivision Agreement File No. 37-T-22008.docx
Attachments:	<ul style="list-style-type: none"><li>- Mulberry Court Aerials.pdf</li><li>- Mulberry Court Draft Plan.pdf</li><li>- Subdivision Agreement Mulberry Ct.pdf</li></ul>
Final Approval Date:	Apr 18, 2023

This report and all of its attachments were approved and signed as outlined below:

### No Signature found

Chris Aspila



Melissa Osborne



Tracy Prince



Valerie Critchley



Kevin Fox