



## THE CORPORATION OF THE TOWN OF AMHERSTBURG

### OFFICE OF PLANNING, DEVELOPMENT & LEGISLATIVE 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.*

Author's Name: Frank Garardo	Report Date: January 10, 2020
Author's Phone: 519 736-5408 ext. 2124	Date to Council: January 27, 2020
Author's E-mail: <a href="mailto:fgarardo@amherstburg.ca">fgarardo@amherstburg.ca</a>	Resolution #:

To: Mayor and Members of Town Council

Subject: Kingsbridge Subdivision Phase 5G - Subdivision Agreement  
File No. 37-T-13003

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

It is recommended that:

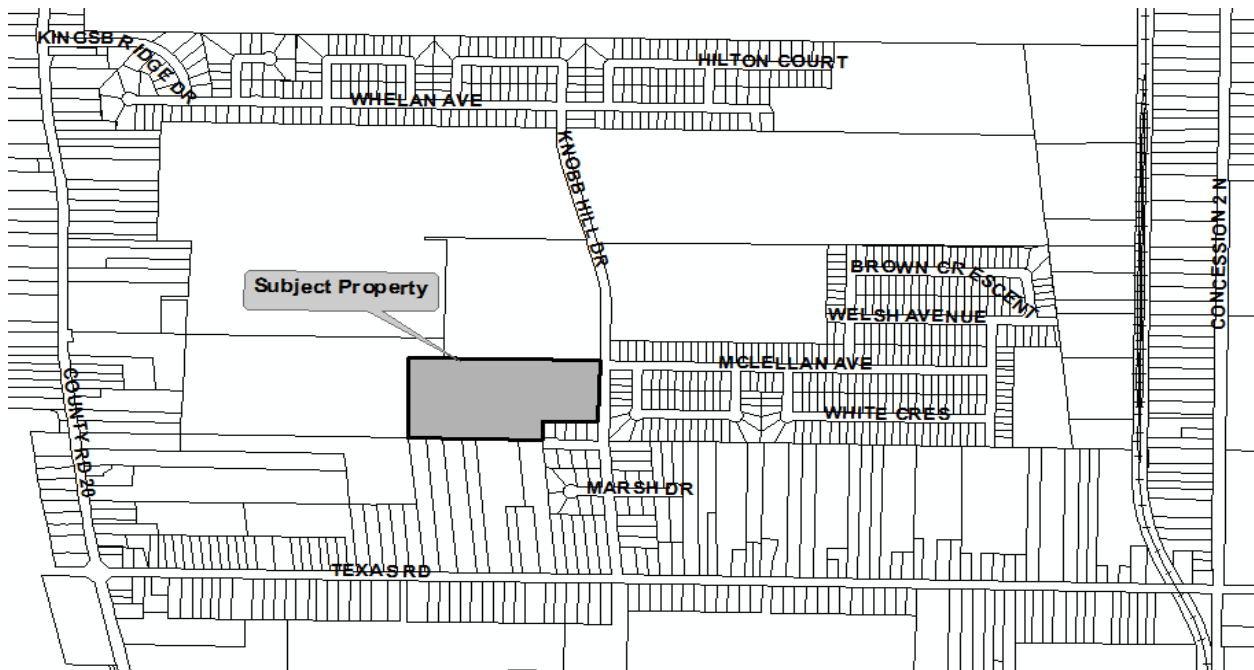
1. The Corporation of the Town of Amherstburg **ENTER INTO** a Subdivision Agreement with 1027579 Ontario Limited for Kingsbridge Subdivision Phase 5G;
2. **By-law 2020-010** being a By-law to authorize the signing of a Subdivision Agreement for Kingsbridge Subdivision Phase 5G be taken as having been read three times and finally passed and the Mayor and Clerk **BE AUTHORIZED** to sign same; and
3. **By-law 2020-011** being a By-law to authorize the execution of a Drainage Agreement with 1078217 Ontario Ltd. and 1027579 Ontario Ltd. 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 Mr. Michael Dunn on behalf of 1027579 Ontario Limited to execute a subdivision agreement for Kingsbridge Subdivision Phase 5G. 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 Subdivision (Phase 5G) Agreement applies to a 7.14 hectare vacant parcel of land generally located south of Pat Thrasher Park and east of Knobb Hill Drive, within

Kingsbridge Subdivision. A key map has been attached below. The approval of Phase 5G of Kingsbridge Subdivision would require the westerly extension of McLellan Ave. The draft plan of subdivision consists of lots for sixteen (16) single detached dwellings and ninety (90) townhomes.



In December 2013, 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 Kingsbridge Subdivision Phase 5G. At the same meeting Council approved a Zoning By-Law Amendment to Holding Residential H-R2) Zone and holding Residential Multiple First Density (h-RM-1) Zone.

The County of Essex granted draft plan approval September 17, 2014, subject to a number of conditions including 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.

In July 2017, the proponent received a three-year extension of the draft plan approval for Kingsbridge Subdivision Phase 5G (File #37-T-13003). The extension was required and warranted due to a lengthy approval process with the Ministry of Natural Resources and Forestry (MNR), which impacts the Kingsbridge Subdivision Development as a whole as opposed to only this phase. And further to allow for approval of the Stormwater Management (SWM) Facility required from the MNR, which this phase is reliant on for outlet and detention. The SWM Facility has recently been finalized.

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

placed on the subject lands and will only be removed after completion and confirmation of satisfactory installation of municipal servicing.

### **3. DISCUSSION:**

#### Provincial Policy Statement (PPS)

The application is consistent with the PPS 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 COP.

#### 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 has obtained an Endangered Species Act authorization from the Ministry of Natural Resources and Forestry to allow for the construction of the subdivision.

#### Zoning By-law

The subject lands are designated to Holding Residential H-R2) Zone and holding Residential Multiple First Density (h-RM-1) Zone. The zoning permits single detached dwellings and townhomes.

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 for Phase 5G under By-law 2020-010 (attached as Schedule A) 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 phase 5G of the Kingsbridge Subdivision 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, watermain, 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;

The developer's obligation relating to the dedication of parkland has been fulfilled through initial phases of the Kingsbridge development. The entire requirement for the 5% parkland dedication was conveyed to the Town in one Block.

Specific considerations under the recommended Subdivision Agreement for Phase 5G are highlighted as follows:

#### **Article 21 – Stormwater Management and recommended Drainage Agreement**

Under Article 21 of the Agreement, the developer is required to take special measures to address stormwater management. As part of the installation of services the Town and Developers acknowledge and agree that the installation of temporary (initial stage) and permanent phased stormwater management facilities will be required. The approved stormwater management plan(s) for such development(s) require the construction of temporary drainage ditches to link the fully serviced lands with the permanent stormwater management pond located on the Subject Lands, which temporary drainage ditches run or will run through the Subject Lands. As subsequent phases of the overall subdivision are developed, the temporary drainage ditches will be replaced by permanent storm sewers and road surfaces.

A Drainage Agreement is required to ensure that the developer(s) covenants and agrees to construct and maintain temporary drainage ditches and the SWM pond in accordance with the approved storm water management plan and ensure that the temporary drainage ditches and SWM pond perform their intended functions, all at the developer's expense. The Drainage Agreement also provides securities to the Town to secure obligations of the Developers to maintain such temporary drainage ditches until the ditches have been entirely replaced by permanent storm sewers. The recommended Drainage Agreement under By-Law 2020-011 is attached as Schedule B.

#### **Article 36 - Naturalized Area Conveyance**

As part of draft Plan of Subdivision approval for the complete Kingsbridge Subdivision the proponent was required to complete an Environmental Impact Assessment. As a result the proponent was required to apply for an overall benefit permit from the Ministry of Natural Resources and Forestry (MNRF).

As part of the MNRF permit, the proponent is required to complete a naturalized corridor throughout the Kingsbridge subdivision. The Developer is required to designate the lands as protected conservation lands and to transfer the lands to the Town after completing the requirements of the MNRF permit. The conveyed protected lands will become an asset of the Town and be added to the Town's tangible capital asset (TCA) inventory. These lands are restricted use.

#### **Article 43 - Parkland Dedication**

Under the Agreements for previous phases of the development records indicate that developer (1078217 Ontario Limited) made a cash deposit for payment in lieu of parkland dedication prior to creation of the amalgamated Town of Amherstburg (circa 1999). The draft Subdivision Agreement for phase 5G (section 43) includes language similar to that in the Subdivision Agreement for Phase 6 such that lands have been transferred to the Town from the developer for Kingsbridge Subdivision to satisfy parkland dedication requirements of **the entire subdivision**. And further that 'the Town agrees to reimburse the developer (1078217 Ontario Limited) the amount of \$20,150' at such time that 'the parkland where the drainage canal is located is usable by the Town'.

The developer has provided an 8.39 hectare parcel of land to represent the 5% of parkland dedication for the entire Kingsbridge Subdivision. As the Subdivision evolved the developer was also required to provide lands for Conservation under the MNRF permit and to provide lands to the Town for a stormwater management facility with amenity trails.

#### **4. RISK ANALYSIS:**

Approval of the Subdivision Agreement for Phase 5G 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.

The Developer is obligated to complete the MNRF requirements for protected, naturalized lands to be improved as a protected habitat and then conveyed to the Town. The Developer is required to designate the lands as protected conservation lands and to transfer the lands to the Town after completing the requirements of the MNRF permit. Under the MNRF requirement for the transfer of these protected lands, the Town will be required to protect and maintain the lands going forward, which will have future operational and financial impacts for the Town.

#### **5. FINANCIAL MATTERS:**

The draft Subdivision Agreement for Phase 5G 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 assessed by the Town for each residential dwelling unit built in the subdivision.

TCAs that will be transferred to the Town related to the Kingsbridge Subdivision and all related Agreements (including the subject Agreement for this report) will be added to the Town's asset inventory. The Town will be obligated to maintain and renew those assets based on service level and legislated requirements.

The operational and financial impacts and demands related to accepting protected, naturalized area lands, which MNR requires be transferred, are under review and will affect future budgets.

As noted above, the Town holds funds paid as cash in lieu of Parkland Dedication in the obligatory Parkland Dedication Reserve Fund in the amount of \$20,150. As the requirements of the Planning Act have been satisfied through a transfer of lands, these funds are excess to the statutory requirement for parkland dedication and will be paid out in accordance with the terms of the Subdivision Agreement – Phase 5G (and any preceding agreements with this requirement) to reimburse the applicable developer at such time that the parkland where the drainage canal is located is usable by the Town.

## **6. CONSULTATIONS:**

Todd Hewitt, Manager of Engineering  
Justin Rousseau, Treasurer  
Cheryl Horrobin, Director of Corporate Services

## **7. CONCLUSION:**

Administration is recommending approval of both the Subdivision Agreement with 1027579 Ontario Ltd and the Drainage Agreement with 1027579 Ontario Ltd and 1078217 Ontario Ltd (c/o Mike Dunn) for Kingsbridge Subdivision Phase 5G. 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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Frank Garardo  
**Manager of Planning Services**

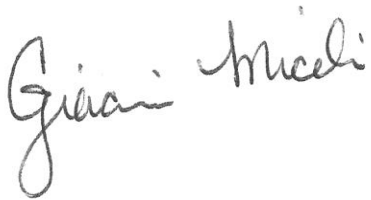
## Report Approval Details

Document Title:	Kingsbridge Subdivision Agreement-Phase 5G.docx
Attachments:	- Report to Council-January 27-Kingsbridge Phase 5 Sub Agreement-ATTACHMENTSfinal.pdf
Final Approval Date:	Jan 22, 2020

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



Cheryl Horrobin



John Miceli



Paula Parker