



Municipality of Port Hope

Staff Report

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Report Title: Final Approval of Subdivision (SU01-2019) Mason Homes Phase 5A

Report to: Planning & Development Committee

Date of meeting: September 6, 2022

Report Author:

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Department responsible:

Planning & Development

Report Number: PD-30-22

Recommendation:

1. That a By-law be presented to Council to authorize the execution of Subdivision Agreement with 2107401 Ontario Inc., Penryn Mason Homes Inc., AON Inc., Penryn Park Estates Inc. and the Bank of Montreal for Phase 5A.
2. That following the Registration of the above-noted Subdivision Agreement, that staff be authorized to approve the subject Plan of Subdivision, as Final Approved and then proceed with the necessary arrangements to have the Plan Registered in accordance with Section 51(58) of the *Planning Act*.

Highlights:

- The application for Official Plan Amendment to re-designate a portion of the lands to a site-specific special policy area 17, to allow residential uses consistent with the adjacent approved Mason Homes plans of subdivision has been approved by Ontario Land Tribunal in June 2021 for the Phase 5A only.
- Official Plan Amendment and Zoning By-law Amendment has been approved by Ontario Land Tribunal in June 2021 (By-laws 41/2021 and 42/ 2021) for the Phase 5A only.
- The Draft Plan of Subdivision was also approved by Ontario Land Tribunal in June 2021 of the development of 271 dwelling units comprised of single detached dwellings in a freehold tenure within Phase 5A, subject to a number of conditions.
- The applicant has submitted an application for the Final approval of the Plan of Subdivision for Phase 5A consisting of 270 freehold single detached dwellings, municipal roads and 9 blocks. The Subdivision Agreement sets out the servicing requirements on the site.

- Phase 5B which was identified as the lands which remain under appeal (subject of a hearing before the Tribunal scheduled in August 2023) are not part of this agreement
- It is the recommendation of the staff that Council enters into a Subdivision Agreement with the 2107401 Ontario Inc., Penryn Mason Homes Inc., AON Inc., Penryn Park Estates Inc. and the Bank of Montreal.

Background:

Subject Lands:

The Subject Lands are generally located south of Strachan Street and west of Victoria Street South in the Urban Area of the Municipality of Port. The irregularly shaped lands, with an area of 14.48 ha (35.8 ac), represents only Phase 5A of the Lakeside Village Community Hope (See **Figure 1: Subdivision Lands**).

Lands referred as Phase 5B (i.e. the 3.15 ha woodlot lands and a 120m adjacent buffer area) are not part of the Subdivision Lands.

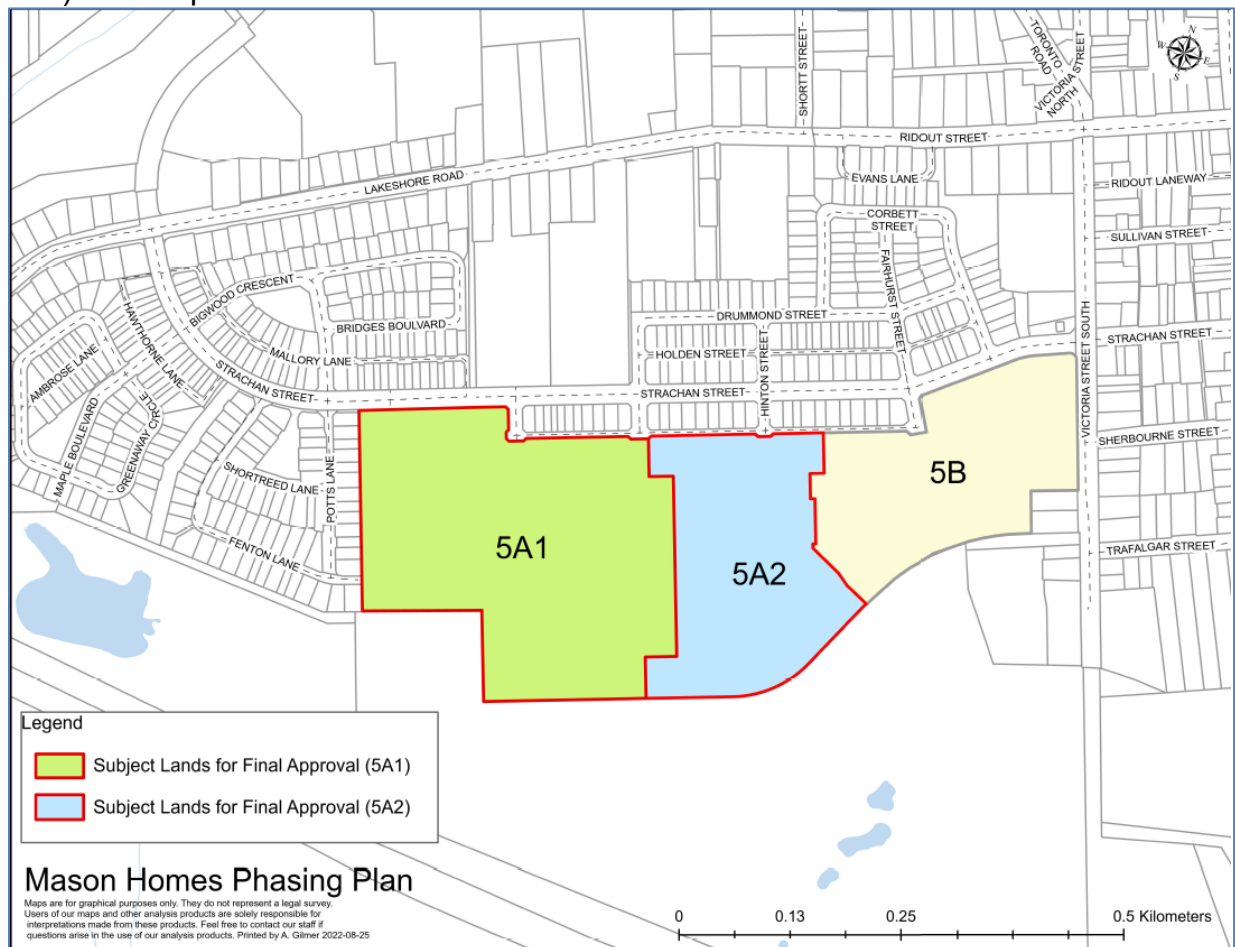


Figure 1: Subdivision Lands

Surrounding Land Uses:

The subject lands are located close to Lake Ontario and adjacent to the golf course. They are surrounded by:

- existing residential subdivision (Phase 3 of Mason Homes), existing detached residential dwellings, Phase 4 residential subdivision (recently approved and under construction) and King’s Field Park, to the north
- Victoria Street South and existing detached residential dwelling, to the east;
- Port Hope Golf and Country club, with Canadian National and Canadian Pacific rail lines and Lake Ontario to the south; and
- existing residential subdivisions (Williamsport and Phase 1 of Mason Homes) located immediately west of the subject site.

Current approvals:

The subject lands were subject to Official Plan Amendment (OP01-2019), Zoning By-law Amendment (ZB06-2019) and Draft Plan of Subdivision (SU01-2019). The Draft Plan included Block 272 (woodlot and 120 m buffer lands), identified as the lands which remain under appeal and are now the subject of a hearing before the Tribunal in August 2023.

The purpose of the Draft Plan of Subdivision application was to facilitate the development of 271 single detached residential units accessed by an array of public roads and lanes and serviced by municipal infrastructure. Draft Approved Plan did not alter Block 272.

Additionally, the Phase 5A lands have received a Site Alteration Permit No. 118/2021 and Pre-Servicing Agreement dated April 7, 2022.

Proposal:

The proponent is seeking final approval of the Phase 5A in two stages to develop 270 single detached residential units accessed by an array of public roads and lanes and serviced by municipal infrastructure. Draft M-Plan (see **Attachment 1: Plan of Subdivision**), excludes the lands of Phase 5B.

In its final form, the Plan includes elements as follows:

Table 1: Site Statistics

| Land Use | Area (ha) |
|-------------------------------------|------------------|
| Residential Lots (1-270) | 9.86 |
| Servicing Blocks (272-275) | 0.21 |
| Walkway Block (276) | 0.02 |
| 0.3, Reserves (Blocks 271, 277-279) | 0.00 |
| Public Roads and Lanes | 4.4 |
| TOTAL | 14.48 |

Discussion:

There have been a number of reports regarding Phase 5A, with the latest on May 18, 2021, describing in detail the proposed development and providing a comprehensive review of the relevant provincial and municipal land use and development policies that apply to the proposal. It is not proposed to repeat those sections and instead the balance of the report will briefly review the clearance of the conditions of the Draft Plan Approval, fencing, and the Heritage Impact Assessment that was prepared for Phase 5A.

Clearance of Conditions of Draft Approval:

As summarized in **Table 2**, the required Subdivision Agreement is the main tool by which the developer agrees to the majority of the various Conditions of Draft Approval as issued by Council. The Subdivision Agreement is a critical document which helps to direct development as approved by Council, setting out servicing requirements as well as the long-term maintenance of the subject lands.

The Draft Subdivision Agreement (Attachment 1) has been prepared based on extensive discussions with municipal staff, the developer and respective solicitors.

Table 2: Clearance of Conditions of Draft Approval

| Description | Clearance |
|--|---|
| Recognition of Draft Plan | Final Draft M Plan Prepared |
| Road allowances shown & dedicated | Incl. in Sub. Agreement |
| Streets named by Municipality | Completed |
| Preparation of HIA | Completed- Clause 10 in the Subd, Agreement |
| Revise servicing blocks | Completed |
| Provide an updated Functional Servicing and SWM Report | Completed |
| Conveyance of servicing blocks | Incl. in Sub. Agreement |
| Design and Construct servicing requirements to specifications of approving authorities | Completed |
| Drawing identifying street and lane requirements | Completed |
| Proper terminations of east end of Street A and B | Completed, Incl. in Sub. Agreement |
| Utility Coordination Plan, to the satisfaction of the Municipality | Completed |
| Streetlight Design, to the satisfaction of the Municipality | Completed |

| | |
|--|---|
| Soil Management Plan, to the satisfaction of the Municipality | Incl. in Sub. Agreement |
| Construction Traffic Management Plan, to the satisfaction of the Municipality | Incl. in Sub. Agreement |
| Wording in agreement re: to follow recommendations within Construction and Traffic Management Plan pursuant to Condition No. 17 | Incl. in Sub. Agreement |
| Wording in agreement re: regular cleaning of streets within Phase 5A as well as adjacent streets to satisfaction of the Director of Works and Engineering | Incl. in Sub. Agreement |
| GRCA approval | Completed |
| Approval of community mailbox location, to the satisfaction of Canada Post | Completed |
| Canada Post warning clauses | Incl. in Sub. Agreement |
| Warning Clause re proximity to the Ganaraska River | Incl. in Sub. Agreement |
| Submission of a Water Modelling Report | Incl. in Sub. Agreement |
| Bell Canada shall confirm satisfaction with respect to Bell Canada facilities servicing this plan of subdivision | Incl. in Sub. Agreement |
| Natural heritage features warning clause | Incl. in Sub. Agreement |
| Provide proof of "Offer to Connect" from Elexicon, and agree to protect existing Elexicon facilities during construction | Incl. in Sub. Agreement. |
| Potential required easements for utility, telecommunication services, drainage or servicing purposes shall be conveyed to appropriate authority | Incl. in Sub. Agreement |
| Wording in agreement to contain provisions, wherein the Owner agrees to contact Historic Waste Program Management Office to approve a schedule of excavation phase of construction and then to implement monitoring of excavations | Incl. in Sub. Agreement (see attached letter) |
| Servicing design and costs | Incl. in Sub. Agreement |

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|--|-------------------------|
| Enter into a Subdivision agreement | Incl. in Sub. Agreement |
| Wording in agreement: Purchasers of lots with vehicular access from a public rear lane are advised that waste collection services from the County of Northumberland shall be from the fronting public street and not the rear lane | Incl. in Sub. Agreement |
| Wording re installation of a privacy fence 1.8 m in height along the west boundary of Lots 1 to 14 | Incl. in Sub. Agreement |
| Installation of a black chain link fence 1.2 m in height along both sides of servicing Blocks, extending from the rear lot line to the required front yard setback on the adjacent lot | Incl. in Sub. Agreement |

The Subdivision agreement and the M-Plan will be registered on title.

Heritage Impact Assessment (HIA) Opinion Report:

Ten lots (Lots 98-107) in the southeastern corner and abutting the Port Hope Golf Course have a holding provision H7. These lots were identified as lots where the construction may impact the off-site cultural heritage features to the south and east of the proposed subdivision lands (which cultural heritage features were identified in CHER report prepared by LHC on behalf of the Municipality). Goldsmith Borgal & Co. Ltd. Architects (GBCA) prepared an Opinion Report in October 2021 concluding that the cultural heritage resources of the 82 Victoria Street South and 88 Victoria Street South will not be subject to adverse impacts from the proposed development of Phase 5A. Mitigation measures recommended include buffer plantings of dense trees and/or fencing to be installed at the rear portion of the ten lots in order to mitigate the potential indirect impacts on views. By-law 42/2021 included conditions for removing the Holding (H7) provision: shall be lifted once an HIA is completed to the satisfaction of the Municipality and any recommendations of the HIA are implemented to each of the lots within the zone. LHC, the peer reviewer on behalf of the Municipality, is satisfied with the conclusion of the GBCA report and its recommended measures.

Staff notes clause 10 of the Subdivision Agreement that states “The Owner shall implement the recommendations contained in the Heritage Report and Opinion prepared by GBCA Architects dated October 15, 2021, including the establishment of the buffer or dense trees and/or fencing along the rear of Lots 98 to 107 on the Plan, , prior to the sale of such lots. In addition, a restrictive covenant shall be registered on title restricting owners of such lots from removing such buffer, all to the satisfaction of the Municipality.”

The proponent will be applying shortly for removal of H7.

Fencing:

It is a common municipal practice to shield the existing residential development from the proposed development. To this effect, the Municipality requested perimeter fencing along the rear of the lots adjacent to existing residential uses as shown on the figure below. The fencing will be solid board privacy fence, 1.8 m in height and will be constructed at the sole cost of the proponent.

Additionally, staff recommended a 1.2 m black chain link along the servicing blocks, as per wording of draft plan Condition 36 and 37.

Financial Considerations:

The Subdivision Agreement (Attachment 2) identifies the following contributions:

- Public Works User Fees in the amount of 4.5% of the Total Development Cost (Schedule "I") up to and including \$200,000 plus 2.5% on the amount above \$200,000, resulting in a value of \$161,517.92 for Phase 5A1 and \$26,105.21 for Phase 5A2. The amount of Public Works User Fees collected under this Agreement will be net of any previous fees posted through any previous Agreement between the Owner and Municipality for the subject lands, including fees posted pursuant to Site Alteration Permit No. 118/2021 (\$12,471.70) and Pre-Servicing Agreement dated April 7, 2022 (\$158,832.66). Due to an overcollection of fees through the Site Alteration Permit and Pre-servicing agreement for Phase 5A1, fees for Phase 5A2 will be less \$9,786.44 resulting in an amount of \$16,318.77.
- Performance Guarantee" consisting of an irrevocable Bank Letter of Credit in the amount of \$3,150,358.44 for Phase 5A1 and \$1,044,208.28 for Phase 5A2. The amount of Security required for the "Performance Guarantee" under this Agreement will be net of any previous Guarantee posted through any previous Agreement between the Owner and Municipality for the subject lands, including security posted pursuant to Site Alteration Permit No. 118/2021 and Pre-Servicing Agreement dated April 7, 2022.

The development of the proposed residential Plan of Subdivision in its current form is anticipated to yield approximately \$1,189,000 in Building and Plumbing Permit fees, \$6,089,000 in development charges for the Municipality and \$1,039,000 for Northumberland County (all three figures on a one-time basis) and provide the Municipality with an initial estimated annual property tax contribution of approximately \$1,100,000.

Communication and Public Engagement:

A community consultation page "Mason Homes Phase 5" was created in December, 2019 under the Municipality's community engagement website. The page contained links to all the materials submitted by the applicant/developer, as well as allowed for feedback to be submitted by residents during the Draft Plan approval and rezoning review process. Two Notice signs were posted on the property since December 2019.

The *Planning Act* does not stipulate requirements for public consultation during Final Approval. Williams Port Committee of Concerned Neighbours (WPCCN) has provided a number of comments during the Draft Plan Approval including grading/drainage and fencing along the western boundary of the Subdivision lands. Staff has continued the dialog with representatives of the Committee during Final Approval process. Staff are of the opinion that Subdivision Agreement [Clauses 70 (h) and (i)] sufficiently addresses their comments/concerns.

Conclusion:

The Owner has received from the Ontario Lands Tribunal draft approval of a plan of subdivision for a total of 271 lots and 6 blocks. A portion of the Draft Approved Lands, namely Block 272, remains under appeal before the Ontario Land Tribunal.

The Owner has applied for the final approval from the Municipality for a portion of the Draft Approved Lands, being the Subdivision Lands as shown on the Figure 1. The Subdivision Agreement relates only to Phase 5A consisting of 270 lots and 9 blocks.

The Subdivision Plan is in keeping with the Municipal Strategic Plan for intentional growth and complies with applicable Provincial policies and the County Official Plan and Port Hope Official Plan. Furthermore, the proposed development represents an opportunity for 270 new dwellings and families to join the Port Hope community and is consistent with the Municipal vision to promote sustainable growth in the community.

At this time, the developer has significantly completed pre-servicing and made a major investment in the required infrastructure for the subdivision. It is anticipated that the home builder (Mason Homes) plans to start the construction of 20 homes by end of November 2022 with many more homes in 2023.

Staff recommends that the attached By-law and Subdivision Agreement be endorsed and forwarded to Council for consideration.

Attachments:

Attachment 1: Draft M-Plan of Subdivision, Aug 30, 2022

Attachment 2: By-law to Authorize Execution of Draft Subdivision Agreement