

Report to Council

Report Title: Walker West Estates Inc. Subdivision Agreement Amendment

Prepared By: Sonya Watson, Chief Administrative Officer

Department: Administration

Date: June 23, 2020

Report Number: CAO2020-11 **File Number:** C11AD, D12WA

Attachments: Subdivision Agreement- May 26, 2020

Recommendation:

That the Council of the Municipality of Brockton hereby approves Report Number CAO2020-11 – Walker West Estates Inc. Subdivision Agreement Amendment, prepared by Sonya Watson, Chief Administrative Officer and in so doing approves the amendments to the Subdivision Agreement for Walker West Estates Inc. as outlined and authorizes the amending by-law coming forward.

Report:

Background:

On March 26, 2019, 1665426 Ontario Inc. (the “Developer”) received approval from Council for the Zoning related to the proposed subdivision adjacent to the Westwood subdivision in Walkerton. The Development established as “Walker West Estates Inc. “received approval from the County of Bruce for the draft Plan of Subdivision on April 8, 2019. The proposed new subdivision will be called “Walker West Estates”, and will include a number of single-family homes (the first phase), townhouses and two apartment buildings (to be phased after the single-family homes). One of the conditions of the draft Plan of Subdivision was that the Developer enter into a Subdivision Agreement with the Municipality of Brockton prior to any lots in the Walker West Estates subdivision being sold.

Two pre-servicing agreements were provided for and on May 26th, 2020 Council authorized signing the Subdivision Agreement. All required fees and securities were provided for by the Developer.

Analysis:

Since the passing of the Subdivision Agreement on May 26th, 2020 some concern has been raised by purchasers regarding the 5’ high black chain link fence that was to be installed along the rear lot line of lots 98 to 106. A zoom call meeting with two purchasers was held to hear their concerns related to the fencing. It is our understanding the purchasers were unaware of this fencing prior to purchase although it has been a condition in the Draft Plan Conditions all along.

Schedule “M” in the current Subdivision Agreement attached includes the following provision:

31. The Developer shall be responsible for installing fencing along the rear lots of 98 to 106 adjacent to the storm water management pond (Block 140) and along the easterly boundary at the back of the current Westwood subdivision properties. Fence will be a minimum of 5’ high black chain link type. This is required for the safety of residents and to minimize risks to the Municipality due to the potential of open water in the stormwater management pond. In addition, the Developer will install a page wire fence along the entire westerly side of the subdivision by the farmland.

Staff have discussed the requirements for this fence at length. The Developer did not raise concern with the fencing during subdivision discussions. Staff still agree that mitigating risk is our main priority in relation to Block 140 and the stormwater management pond. This is a wet pond with steep slopes with a bush area behind the pond. The pond will hold a metre of water or more at all times of the year and will increase during significant rain events. The forebay will hold a metre and a half of water at all times. The use of 4 wheelers and potential of unattended camp fires in the bush area were concerns staff had related to the need for fencing along the lot line. Further a fence along the lot line would prevent future encroachment concerns which are already occurring in neighbouring subdivisions.

While this is a nice natural area due to space constraints the storm water management pond was not designed as a natural feature to be enjoyed in a park like setting. There are risks associated with the depth of this open water. The pond is approx. 12’ from the back of residential lot lines and the Municipality must plan to mitigate future risks to persons or property. While staff maintain our original position that having the fence located on the lot line as the preferred solution to avoid future municipal maintenance concerns, we do wish to work with residents and the developer on this matter in relation to their expectations on purchasing a lot in this area. Therefore, we propose the following alternative as an amendment to the agreement that is satisfactory to the developer as outline below:

Schedule “M” item 31 in the Subdivision Agreement requiring a fence on the lot line would be removed and state the following:

31. The Developer shall be responsible for installing fencing as follows:

- For the Stormwater Management Facility (Block 140):
 - Around the perimeter of the entire facility approximately 1.5 m inside the perimeter of top of the berms of the ponds. Fence will be a minimum of 1.5 m. high black chain link type fencing. Two gates will be provided, one on the northerly side at 3.7 m and one on the southerly side at least 2.1 m near the berm between the two ponds. All installation shall be to the satisfaction of the municipality.
 - The developer will seed the entire disturbed area of the stormwater management Block. It is noted that the intent of the municipality is that minimal maintenance of the area will occur. The berms will be mowed once or twice per year if required and attempts will be made to deal with noxious weeds. The areas inside the fence will be left in their natural state.

All fencing, in any phase of servicing shall be installed prior to the Municipality allowing Occupancy of the adjacent residential properties.

This change will permit all purchasers in this subdivision walk-through use of this natural area in Block 140. The fencing is still required but surrounds the entire pond and is located down the slope within the pond so not as intrusive for residents for visual preference. The Municipality will not maintain this area to a residential standard. This will leave a 12’ area of open Municipal Land behind lots 98 to 106 that municipal staff will have to monitor to ensure encroachments do not occur.

Further, discussions are ongoing related to the clause below that is also part of Section 31.

“In addition, the Developer will install a page wire fence along the entire westerly side of the subdivision by the farmland.”

This page wire fence was requested by the adjacent landowner. It is now understood that discussions are ongoing between the Developer and the landowner regarding the need for this fence and should be resolved next week. It is our understanding the page wire fence may only be required along the westerly border of Block 140 rather than the entire west side. Once we received confirmation in writing from the adjacent landowner this clause will also be updated to reflect this change. The Municipality has no concerns related to this page wire fence. This clause was also a Condition of Draft Plan Approval and can be changed upon consent of the landowner.

If Council concurs with the proposed amendments to the agreement a By-Law has been prepared to authorize the Clerk and Mayor to sign the amended agreement as outlined. Once confirmation is received the changes will be made and the amended agreement will be sent for registration.

Sustainability Checklist:

What aspect of the Brockton Sustainable Strategic Plan does the content/recommendations in this report help advance?

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| • Do the recommendations help move the Municipality closer to its Vision? | Yes |
| • Do the recommendations contribute to achieving Cultural Vibrancy? | Yes |
| • Do the recommendations contribute to achieving Economic Prosperity? | Yes |
| • Do the recommendations contribute to Environmental Integrity? | Yes |
| • Do the recommendations contribute to the Social Equity? | Yes |

Financial Impacts/Source of Funding:

- Do the recommendations represent a sound financial investment from a sustainability perspective?
N/A

The developer will have additional fencing costs but is agreeable to this solution.

Respectfully Submitted by:


Sonya Watson, Chief Administrative Officer