

To: Mayor and Members of Tillsonburg Council

From: Eric Gilbert, Senior Planner, Community Planning

Initiation of Zone Change Application - Oak Park Estates

REPORT HIGHLIGHTS

- Staff are seeking support to initiate a zone change application to apply a holding provision to the unserviced registered lots within a plan of subdivision known as Oak Park Estates.
- Approximately 82 registered lots are present in the development, with 19 of them being held in separate ownership from the subdivision developer. Three lots within the 2019 Phase of Oak Park Estates, which included the extension of Beech Boulevard, are separately owned.
- It is recommended that holding provisions be applied to all of the remaining lots in the subdivision plan, to ensure that any required easements and appropriate development agreements are place for the orderly development of the lands prior to building permit issuance.

DISCUSSION

Background

LOCATION:

The subject lands consist of the remaining undeveloped 82 lots in Plan 41M-143 and Plan 41M-144 in the Town of Tillsonburg. The subject properties have frontage on Beech Boulevard, Walnut Drive, Hemlock Drive, Sycamore Drive, Magnolia Court and Concession Street West, in the Town of Tillsonburg.

COUNTY OF OXFORD OFFICIAL PLAN:

Schedule "T-1"	Town of Tillsonburg Land Use Plan	Residential
Schedule "T-2"	Town of Tillsonburg Residential Density Plan	Low Density Residential

TOWN OF TILLSONBURG ZONING BY-LAW NO. 3295:

Existing Zoning: Low Density Residential – Type 1 Zone (R1A)

Proposed Zoning: Low Density Residential – Type 1 Holding Zone (R1A-H)

PROPOSAL:

The Oak Park Estates plan of subdivision was draft approved and registered in its entirety in 1994. The original developer entered into a subdivision agreement to develop the lots (construction of single detached homes) including the construction of streets, sewers, water and other infrastructure in a phased manner. Some of the phases were developed, however a significant area of the subdivision remains undeveloped. Consequently, there are a number of lots that have been created that do not front on an improved street, and have no water, sanitary, or municipal storm services.

For reasons unknown, the original developer was unable to continue the development of the subdivision beyond the initial phases noted above and, at some point, a number of lots were transferred to individuals pursuant to tax sales under the Municipal Act. Of the total number of vacant lots remaining in the development (109), 19 are held in separate ownership from the current owner of the subdivision.

The current owner has completed a number of phases, including phases in 2002, 2008 & 2012 which involved the construction of William Street and the northern portion of Beech Boulevard, including all municipal services. The current owner has also recently constructed the extension of Beech Boulevard to Concession Street West.

Plate 1, Location Map with Zoning, shows the location of the plan of subdivision and the existing zoning in the immediate vicinity.

Plate 2, 2015 Aerial Map, provides an aerial view of the remaining lands in the Oak Park Estates subdivision.

Plate 3, Ownership of Lands, shows the lots that are owned by the developer and other individuals.

In 2018, Town Council adopted By-Law 4220, being a Local Services By-Law that introduced a Special Local Municipal Levy to front-end the servicing costs for the 19 lots that were not owned by the developer. The By-law allows the Town to pay the developer who installs the services up-front, and recover the costs from the individual owners on a pro-rated basis when the streets are constructed and municipal services provided to the individual lots.

As part of the 2019 Phase of Beech Boulevard, it has come to the attention of Town and County staff through the review of detailed engineering design and subdivision lot grading plans, that 3 of the lots that were recently serviced in the current phase that are not owned by the developer are located in areas that require rear yard drainage swales and are included in areas that require drainage easements to be registered in favour of the Town. As these lands are in separate ownership, the current developer is unable to secure these drainage easements as required by the provisions of the Town's current subdivision agreement.

To ensure that the owners of these lots will provide the required easements to implement the overall subdivision design, and to ensure that the required subdivision agreement is registered on title prior to the issuance of a building permit, it is recommended that holding provisions be introduced on these lots. The holding provisions would be recommended for removal once the property owner has provided proof of registration of the required easements, and has entered into a subdivision agreement with the Town and County to ensure that the overall design for the development is adhered to.

It is also recommended that the holding provision be placed on all remaining lots in the development, with the exception of the 2019 Beech Boulevard Phase, (for which a subdivision agreement will be executed in the near future). This approach would have a number of benefits as identified below:

- Holding provisions would publicly identify that services are not available for the lots. Currently, Town and County staff field a significant number of calls for information from the public when one of the registered lots is offered for sale. Potential purchasers typically assume that the lot is fully serviced, as it is standard practice that only serviced lots are registered. Staff have been advising potential purchasers that the lots are un-serviced, there is no immediate timetable for servicing, and are not able to obtain a building permit, notwithstanding that they are legally conveyable lots. A holding provision would be a public 'flag' that would disclose the lots are not building permit ready.
- Holding provisions would ensure that, similar to any other developer in Town, a building permit would not be issued until the applicant enters into a development agreement with the Town and County and proof is provided that the agreement has been registered on title;
- Holding provisions would ensure that, similar to any other developer in Town, any required easements for drainage or servicing are provided to the Town and County in accordance with the approved, overall design of the subdivision;
- Holding provisions would ensure that the vacant lots are treated in a similar fashion to other vacant draft plans of subdivision that have holding provisions in place to ensure that appropriate development agreements are in place, and adequate servicing capacity is available to service the development.
- Holding provisions could be used to ensure that the outstanding financial obligations arising from the adopted Special Services By-Law have been met prior to Building Permit issuance.

The use of Holding Provisions is regulated by Sections 34 & 36 of the Planning Act. Holding provisions are an administrative tool that prevents the issuance of building permits until they are removed. Holding provisions are typically used for phasing in draft plans of subdivision, to manage service capacity, and to ensure that appropriate development agreements are in place prior to building permit issuance. The Town has regularly used Holding Provisions in new draft plans of subdivision.

To impose a Holding Provision, the provisions of Section 34 of the Planning Act apply and it is processed similar to other zoning by-law amendments. All affected property owners would be notified directly through written correspondence, and would receive notice of complete application, notice of public meeting, and notice of Council's decision on the matter.

The removal of a holding provision is a more streamlined process. The request proceeds to Council following circulation of the request, no public meeting or public notification is required other than to the property owner on which the holding provision is being removed, and the sole right of appeal lies with the applicant.

It is expected that once the individual owner of each lot has entered into the appropriate development agreements, any required easements have been provided, and confirmation of payment for servicing has been received that a staff report would come to Council recommending that the holding provisions be removed. Lots owned by the developer would have the holding provision lifted for each phase once the required capital servicing works have been constructed and inspected, subdivision agreements have been registered, and required easements have been registered.

RECOMMENDATION

It is recommended that the Council of the Town of Tillsonburg direct staff to initiate a zoning by-law amendment to implement a holding provision for vacant lots within the OakPark residential plan of subdivision to ensure the orderly development of the lands.

SIGNATURES

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Approved for submission:

Gordon K. Hough, RPP,
Director

Report Approval Details

Document Title:	OakPark Estates Commencement Report.docx
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This report and all of its attachments were approved and signed as outlined below:

A handwritten signature in black ink, appearing to be 'Ron Shaw', with a stylized, cursive script.

Ron Shaw - Nov 26, 2019 - 10:10 AM