

STAFF REPORT: ENGINEERING AND PUBLIC WORKS DEPARTMENT



REPORT TO: Infrastructure and Recreation
 Committee
MEETING DATE: February 12th 2013
REPORT NO.: EPW.13.009
SUBJECT: Trail Woods Development Status
 Report
PREPARED BY: Reg Russwurm, Director of Engineering and
 Public Works

A. Recommendations

THAT Council receive Staff Report EPW.13.009 entitled "Trail Woods Development Status Report";

AND THAT Council endorse the Trail Woods Development Agreement as executed and direct Staff to implement the terms of the Agreement;

AND THAT Council decline the request by the Trail Woods Corporation for the Town to cost share in the preparation of Records Drawings.

B. Background

Overview

Further to a deputation by Dan Guay to the Infrastructure and Recreation Committee on January 15, 2013, Staff was asked by Committee to provide a status report for the Trail Woods Development.

The development in question is north of the Georgian Trail and south of Cameron Street between Peel Street and the 10th Line. The development was granted Draft Plan approval by the OMB July 13, 2004 and updated July 18, 2005. Phase 1 of the development is the first 24 lots on the east end of High Bluff Lane of the 71 lots that have been serviced on this street. A location map is provided as Attachment #1.

Development History

The Trail Woods Development concept was fully matured and moving towards construction when the need for trunk services to the Lora Bay Area became apparent. A number of options were considered to connect Lora Bay Area to the existing water and sanitary sewer systems. The preferred solution was to install these services through Trail Woods along High Bluff Lane. As part of the Lora Bay servicing projects, the trunk services were installed by the Town in 2005. The water and sanitary laterals were installed under the Town contract on behalf of the Developer, Boss III Construction, through a Pre-Servicing Agreement dated January 25, 2005.

With the water and sewer servicing installed on High Bluff Lane, Boss III Construction signed a Pre-Servicing Agreement dated May 9, 2006 to complete the works on High Bluff Lane. Construction began on the remaining infrastructure shortly thereafter. Records indicate that the Developer's intention was to complete the storm system, road work and utilities. However, by October 2006, the Developer's Contractor had abandoned the site. In December of 2006, Lora Bay was performing due diligence investigations on the development and in the spring of 2007 a new developer "Trail Woods Corporation" was introduced.

The Trail Woods Corporation completed the municipal infrastructure in the summer of 2007 and signed the Development Agreement on October 2, 2007. On January 18, 2008, the Town issued a Certificate of Completion related to Section 5.1 of the Development Agreement to enable the issuance of building permits. Presently, 9 building permits have been issued in this development.

The Town has not yet issued a Certificate of Acceptance of the Basic Services. In accordance with the Agreement, this is the first certificate that is issued related to the Town's acceptance of the work to trigger a reduction in the securities. The Agreement provides a list of the deliverables that must be provided to achieve the certificate. Two significant items on this list are the Consultant's certification of the work and the Record Drawings for the work. At all times, the Developer must retain a Consultant of record for the works by written notice provided to the Town.

One of the issues with the entire body of work is the number of consultants that have been involved. It seems that the Developer initially engaged Gamsby and Mannerow (G&M) as the Consultants based on the design drawings that were initially dated November 22, 2004. The Town engaged AWS Engineers and Planners Corporation (AWS) to design and construct the water and sanitary trunk services from Thornbury to the Lora Bay Area along High Bluff Lane. When the Developer moved forward with the works following the trunk services, R.J. Burnside was retained to construct the storm system and roads. When Trail Woods Corporation took over from Boss III Construction as the Developer, Henderson Paddon, later Genivar, was retained as the Consultant to complete the road and utility works. Currently there is no Consultant of record for this Development.

The Town's files contain certification and Record Drawings by AWS for the trunk water and sanitary works. The development files do not show any certification of Works or Record Drawings provided by Consultants on behalf of the Developer.

Current Status

Staff understand that Trail Woods Corporation is owned by entities that also have interests in the Lora Bay Golf Club and related development areas. There has been email verification from known representatives of the Lora Bay Developer that Mr. Guay represents Trail Woods Corporation.

The Town has sent correspondence to Mr. Guay during 2012, and others representing the Developer earlier, stating that prior to advancing the development process, a notice is required that outlines who will be the Consultant of record to provide the technical oversight of the development. To date, the Developer has not reported to the Town who has been engaged to be the Consultant as per the Agreement. The Town has received a copy of correspondence from G&M to the Developer outlining a work proposal to prepare a set of Record Drawings, but does not speak to agreeing to be the Consultant of record. The work proposal was in essence a plan to survey the site and record the results. The work proposal appears adequate to prepare a set of Record Drawings, but importantly it does not deal with the Town's concern of who will certify the works installed by the Developer. It should be noted that the water and sanitary works installed under the Town's contracts do not have to be certified by the Developer's Consultant. The works have already been accepted by the Town and don't have to be re-certified.

Next Steps

The steps necessary to advance the development are outlined in detail in the Development Agreement. An overview through is provided below for information.

1. The crucial first step to advance the development is the engagement and designation of Consultant Team to represent the Developer as called for in the Agreement. The Consultant Team (Consultant) is to be comprised of a Professional Engineer and a Landscape Architect as necessary registered with their applicable associations. The Consultant is to act as the Developer's technical representative in all matters pertaining to the Works.
2. The Consultant is to inspect all the Works under the responsibility of the Developer and prepare a list of deficiencies.
3. Any deficiencies are to be repaired.
4. Contact the Town to initiate a site inspection.
5. Any deficiencies found during the Town's inspection are to be repaired.
6. A request by the Consultant for a Town Certificate of Acceptance for the Basic Services plus other works completed in addition to Basic Services with supporting information. This Consultant would need to obtain and review the documentation available from the various consultants that have worked on the project for the Developer and assemble the various letters of certification. If the Consultant cannot put the certification together from other consultants, they will have to undertake whatever means available to provide the certification including excavation of Works to spot check the installation methods. A certification for the Town's water and wastewater system installed by the Town will not be required. For a Certificate of Acceptance, a set of "red-line" record drawings is required for the Works proposed for Acceptance. A final set of Record Drawings is not required until the Town's Certificate of Assumption is requested.

7. The Town will issue the Certificate of Acceptance for the Basic Services plus other works already completed as appropriate.
8. A request from the Consultant for a security reduction with supporting information.
9. The Town will consider the reduction request and process the reduction as warranted.
10. At some point the Works will be fully completed and the criteria within the Development Agreement will have been satisfied for Assumption of the Works to occur. The Developer through his Consultant will then have to prepare and obtain the documentation as necessary outlined in the Agreement to trigger Assumption

Staff feels the Development Agreement, although at times complicated to follow, is specific in the requirements to advance the Trail Woods Development and receive a security reduction. Staff therefore recommends that Council endorse the Development Agreement as executed and direct Staff to implement the Agreement. Staff will cooperate with the Developer, however the onus to advance the development process rests with the Developer.

Record Drawing Cost Sharing

During the deputation on January 15, Mr. Guay asked the Town to pay \$5,000 towards the preparation of the Record Drawings based on the point that the Town installed the trunk watermain and wastewater sewer along High Bluff Lane.

As part of the installation of the trunk servicing, the Town received Records Drawings for its purposes from AWS and doesn't need to recreate that effort. Since the water and wastewater works are integral to and nested amongst the Developer installed Works, it is the responsibility of the Developer through this Consultant to accurately relate all the infrastructure within the road allowance and on the development property. The Town has provided the Developer a copy of the Town's Record Drawings for use and reference in the creation of the Development Record Drawings.

Therefore, Staff recommend that Council decline the request by Mr. Guay to cost share on the preparation of the Record Drawings.

Assumption Criteria

During the deputation, Mr. Guay asked that Council reduce the criteria for Assumption. The key criterion that is being challenged is that 75% of homes have to be built prior to Assumption. Given the pace of house construction in the Town, it can be many years until that criterion is achieved. The primary purpose of the criterion is to ensure the Developer is responsible for damage to or deficiencies found in the public infrastructure as a result of house construction.

At the request of the local development industry, Council agreed in 2012 to a 2yr maintenance period instead of the 75% criterion upon the adoption of an appropriate process and by-law to collect frontage deposit and/or implement a means by which the Town is confident any damage caused during house construction is not borne by the general taxpayer. The change in the maintenance criterion has been considered on a go forward basis and no discussions have been had to make the change retroactive to previous Development Agreements. Until a review is done of the implications of making a retroactive change, Staff recommend that no action be taken on the Assumption criterion until a comprehensive understanding can be had.

C. The Blue Mountains' Strategic Plan

The generation of this report furthers the Town's Strategic Goal #2 "Addressing the Town's municipal infrastructure needs", and Strategic Goal #6 "Providing a strong, well managed municipal government".

D. Environmental Impacts

None.

E. Financial Impact

None as recommended by Staff. In the event that Council wishes to cost share on the preparation of the Record Drawings, the costs would be shared equally between the water and wastewater operating budgets.

F. In Consultation With

Mike Campbell, Construction Coordinator

G. Attached

1. Trail Woods Development – Location Map

Respectfully submitted,

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Trail Woods Development

Location Map

