

MINUTES

County of Lambton
Meeting for the Committee "Land Division Committee"
on
Tuesday June 28, 2005 09:00 AM
Committee Room #1
Chair: Jim Foubister

Orders of the Day:

Applications

The Land Division Committee of the County of Lambton met at the Lambton County Buildings at 9:00 a.m., Tuesday, June 28, 2005, to hold a hearing into applications for Consent and Plans of Condominium.

Present: Chair J. Foubister, Warden Pat Davidson. Members: B. Bilton and T. Case. Also present were Deputy-Secretary-Treasurer M. Pauschenwein and Planner Maria Cossa-Rossi.

Land Division

Application B-006/05

**Valer De Maiter and Sons Limited
Concession 9, West 1/2 of Lot 20 and
North 1/2 of the East 1/2 of Lot 20
Geographic Township of Euphemia
Township of Dawn-Euphemia**

An application has been made with the intent to sever a 58.10 hectare (143.567 acre) parcel into 2 portions for estate planning purposes. The westerly portion is proposed to have an area of 29.138 hectares (72 acres) and the easterly portion is proposed to have an area of 28.936 hectares (71.5 acres). This parcel merged years ago from two separate parcels of 37.87 hectares (93.567 acres) and 20.24 hectares (50 acres) respectively.

The property contains a total of 7 tobacco kilns (3 on the west side and 4 on the east side) and was also the subject of a residential lot severance under B-009/83.

The Official Plan for the Township of Dawn-Euphemia designates the subject lands "Agriculture, Significant Woodlot and Woodlot" and they are zoned "Agricultural (A1) Zone" and "Environmental Protection - Woodlot (EPW) Zone" in the Township Zoning By-law 25 of 2002.

Attending the meeting were Mr. Willie De Maiter and Mr. Mike De Maiter. Mr. Willie De Maiter explained that the reason for the severance is to dissolve the limited company and for estate planning purposes (their application stated that the separated properties would be passed on to their sons).

B. Bilton explained that the reasons were to split up a limited company that was set up by their father. They are tobacco farmers and 50 acres is a viable tobacco farm.

M. Cossa-Rossi read the planning report and M. Pauschenwein read other correspondence received.

Case/Davidson: That Application B-006/05 be approved with conditions.

Carried.

Conditions:

1. That a copy of the deed and R.D. Plan or survey in a form suitable for registration be deposited with the Secretary-Treasurer.
2. That a fee of \$500.00 be paid to the County of Lambton by cash or certified cheque.
3. That all conditions be fulfilled within one year of the notice of decision of this consent. That the certificate of consent required by Sections 53(42) of the Planning Act, be obtained within one year of the notice of decision of this consent.
4. That the applicant enter into an agreement with the Township of Dawn-Euphemia for the apportionment of drainage assessments on the involved properties.
5. That if either the severed portion or the retained portion does not have an access culvert then the applicant is responsible for the cost of the Township of Dawn-Euphemia providing such access.
6. That the applicant obtain, at his expense, minor variances for both the severed and retained portions.

Plan of Condominium

Application 38C-05001

Golfvest Community (Sawmill Creek) Inc.
Concession 9, Part Lots 8 and 9
Geographic Township of Plympton
Town of Plympton-Wyoming
Phased Standard Condominium

Application 38C-05002

Golfvest Community (Sawmill Creek) Inc.
Concession 9, Part Lots 8 and 9
Geographic Township of Plympton
Town of Plympton-Wyoming
Vacant Land Condominium

Two applications for approval of draft plans of condominium have been made by Golfvest Community (Sawmill Creek) Inc. with the intention to build 35 phased standard condominium units under File No. 38C-05001 and 32 single detached vacant land condominium units, 2 common element open space areas and 20 visitor parking spaces under File No. 38C-05002. The parking spaces, 2 common element open space areas and 2 common roads will be shared between the two proposed developments. The subject lands comprise an area of approximately 4 hectares (ha) or 9.88 acres (ac) and are located adjacent to the Sawmill Creek Golf Course, existing low-density residential development to the west, east and north, and Lakeshore Road to the south.

The Town of Plympton-Wyoming recently redesignated a portion of the subject lands from “Major Open Space” to Lakeshore Residential to permit a residential development.

Section 5 of the Town’s Official Plan (OP) states that the primary uses permitted in the Lakeshore Residential Area is for a recreation-based residential community having single-family, semi-detached and/or townhouse dwellings up to a maximum density of 25 units per net hectare (10 units per net acre). Secondary uses shall include a golf course and recreational and community facilities for the use of residents of the recreation-based community but shall exclude commercial uses and other facilities that could compete with existing commercial areas and community facilities.

The applicant proposes low to medium density housing within the form of 35 condominium units (8 townhouse buildings comprised of 4 units each and 1 townhouse building comprised of 3 units) under File No. 38C-05001. File No. 38C-05002 comprises 32 single detached dwellings, 2 common element open space areas and 20 visitor parking spaces. The parking spaces, 2 common element open space areas and 2 common roads will be shared between the two developments (see Plan on next page). Access to the subject lands is proposed off of Lakeshore Road and a secondary access is proposed off of Egremont Road. The plans depict a ratio of approximately 16.75 units per net ha (6.78 per net ac) and therefore are in keeping with the OP's policy.

The proposed draft plans about the Sawmill Creek Golf Course, existing low-density residential development to the west, east and north, and Lakeshore Road to the south. Although the pattern of development in the area is largely that of single detached dwellings, the proposals with both single detached and townhouse dwelling units would set the stage for a seamless pattern of development into the immediate community.

Overall, the proposed draft plans conform to the general intent of the Town's Official Plan.

Council for the Town of Plympton-Wyoming recently rezoned the subject lands from "Open Space" and "Tourist and Resort Commercial" to "Residential 4 (R4)".

The R4 Zone permits "cluster housing", which is an assortment of single, semi-detached and townhouse dwellings. The required minimum front yard and exterior side yard setbacks is 10m, the minimum rear yard setback is 5m and the top of bank setback is 10m (unless otherwise approved by the St. Clair Region Conservation Authority).

With respect to development along Egremont Road (exterior side yard) and Lakeshore Road (front yard), the minimum exterior side and front side yard setbacks in certain areas are below the required 10m. The top of bank setback for units 4 and possibly 3 is also below the required 10m. The applicant is aware of the above-mentioned issues related to non-conformity with the R4 zone and has indicated that minor variance applications will be forthcoming in the near future. The proposed rear and interior side yard setbacks conform to the minimum requirements stipulated in the R4 zone.

As long as minor variances are granted for the front yard, exterior side yard and top of bank setbacks, the draft plans conform to the R4 zone requirements.

The lands are designated primarily "Urban Settlement" in the County of Lambton Official Plan. Policies in the County Plan seek to direct the majority of growth to Urban Centres and Urban Settlements where full municipal services are usually available. Planning policies were formulated to limit development in the rural area to protect farming activities and strengthen existing urban communities. Based on a review of the County's Growth Strategy, the proposed draft plans conform to the County's Official Plan.

County staff has reviewed these draft plans in relation to the 2005 Provincial Policy Statement, as the application was received after March 1, 2005. When reviewing proposed plans of condominium, certain matters must be considered to ensure the health, safety, convenience and welfare of the present and future inhabitants of the local Municipality. In this regard, the Provincial Policy Statement, and Sections 2, 3 and 51(24) of the Planning Act, R.S.O. 1990, contain criteria which must be considered by the Approval Authority.

The Provincial Policy Statement requires planning applications to be consistent with three broad interests of Efficient Cost Effective Development and Land Use Patterns, Resources and Public Health and Safety. Generally speaking, this proposal would contribute to efficient land use planning and would not appear to hinder the expansion of the urban settlement rather it would contribute to its logical expansion. The low-density residential lands would not be located in close proximity to stabilization ponds, waste disposal facilities, expressways, airports, railways, livestock facilities or industrial lands.

Furthermore, the Provincial Policy Statement encourages new residential development, ranging in type and density, to locate within existing built-up areas on full municipal services. The proposed condominium developments would conform to Provincial Policy since they would locate in an existing built-up area on full services in close proximity to approved roads, water lines and sewer lines, thus development would not leap frog over unserviced lands and could integrate itself with planned public infrastructure. Lastly, the Council for the Town of Plympton-Wyoming would have had regard for Provincial Policy when it approved the rezoning on the subject lands.

However, as stipulated in section 2.2.1 of the 2005 Provincial Policy Statement, the planning authority should ensure stormwater is managed from both a quality and quantity perspective. Since this will be a privately maintained system, it is exempted from the certificate of approval process and the Ministry of Environment will not be commenting on the plan. Therefore, the Town of Plympton-Wyoming's engineer will be required to review the stormwater management plan from both a quality and quantity perspective and provide comments back to the County of Lambton Planning Department.

Lastly, section 2.6 of the Provincial Policy Statement requires the protection and conservation of significant built heritage resources and significant cultural heritage landscapes. The Ministry of Culture has reviewed this proposal and has determined that the lands display potential for the discovery of archaeological resources. This is based on the property's proximity to a watercourse (Errol Creek) and topography suitable for human settlement. Given this, the subject lands likely have archaeological resources present and in order to have regard for policy 2.6.2 of the Provincial Policy Statement, the applicants are required to undertake an archaeological study and any significant resources present removed and documented through excavation prior to construction, or preserved intact while development proceeds around the subject property.

Connections from the private system to the municipal water and sewer services, including sewage capacity and/or any other servicing matters will be addressed in the condominium agreement between the applicant and the Town of Plympton-Wyoming. At the time of preparing this report, comments had not yet been received from the Town's engineer regarding the stormwater management plan.

Attending the public meeting were: Neighbours and interest parties; Ivan Beauregard, Fred Milsom, Paul Kingston, Bill Gerrits, Frank and Alice Nauta, Cliff Levitt, and Allan Gray; and on behalf of the applicants; Greg Priamo of Zelinka Priamo Ltd., Michelle Doornbosch of Zelinka Priamo Ltd., Brian Moss, Project Manager and Planner, Matt Alexander of Sawmill Creek and Don Fleming of Sawmill Creek.

Mr. Priamo presented the applications to the Committee and explained that he had read the draft conditions and was satisfied that all services are at the road (water and sewers) and that the proposal would be a benefit to the community.

Cliff Levitt produced an OMB Report which he said required that the dam on the property be removed.

Don Fleming of Sawmill Creek replied by stating that the Ministry of the Environment (M.O.E.) has renewed their certificate and that they are operating in compliance with that certificate.

Greg Priamo said that the decision of the OMB did not require that the dam be removed and that they had water taking permits that allowed them to take 10% of the flow. They are in compliance with the M.O.E.

Allan Gray said that we have had 3 months of dryness and the pond is always full. Where does the water come from?

Bill Gerrits, former owner, said that at the time of the development site surveys were done in an attempt to put in a dam. Ministry of Natural Resources permits were provided for an additional dam at the back of the property with a 2" orifice at the bottom of the dam. Ninety percent of the time there is a flow of water coming over the dam at the front of the property. The pond at the back of the property is not always full.

Paul Kingston, Town of Plympton-Wyoming Councillor stated that this area used to be farmland and that he supports Cliff Levitt and Allan Gray - how do you measure how much water is being used?

Greg Priamo said that the drain issues were not relevant to this application.

Maria Cossa-Rossi read the planning report.

Allan Gray stated that this proposal brings nothing to the agricultural community and finds it very negative.

Bilton/Case: That the Land Division Committee make recommendation to the Secretary Treasurer that Applications 38C-05001 and 38C-05002 be given draft approval with the following conditions which shall be fulfilled prior to Final Approval of these Plans of Condominium.

Carried.

- 1) That this approval dated, -----, 2005, applies to the plan of condominium prepared by Monteith and Sutherland Ltd., Ontario Land Surveyors, dated April 22, 2005, which shows thirty-five (35) phased standard condominium units.
- 2) The development is to be registered as one condominium corporation.
- 3) That prior to any construction, minor variances are granted for the minimum front yard and exterior side yard setbacks from the Town of Plympton-Wyoming.
- 4) That prior to final approval for the registration of any condominium corporation, the Secretary-Treasurer of the County of Lambton Land Division Committee be advised in writing that:
 - i. All buildings are substantially complete and ready for occupancy.
 - ii. Site works are substantially complete and the applicant's consulting engineer has submitted a final lot grading certificate which has been accepted by the Town of Plympton-Wyoming.
 - iii. The proposed plan of condominium showing "as-constructed" buildings and structures has been submitted and accepted by the County of Lambton Planning and Development Services Department as in compliance with all applicable zoning by-law regulations.
 - iv. The fire route and fire route signs have been installed to the satisfaction of the Town of Plympton-Wyoming.
 - v. All obligations of the owner, pursuant to the Development Agreement with the Town of Plympton-Wyoming are substantially complete.
 - vi. The applicant has entered into encroachment agreements (if applicable) to the satisfaction of the Town of Plympton-Wyoming.
 - vii. The entrance easement to be used by both the condominium corporation and the golf course is granted by way of a registered deed to the satisfaction of the Town of Plympton-Wyoming.
- 5) That prior to final approval for the registration of any condominium corporation within this development, a plan showing the municipal addresses to be displayed on the exterior of each unit in the entire development has been submitted to the satisfaction of the Town of Plympton-Wyoming.

- 6) That prior to final approval for registration of any condominium corporation within this development that the names of the private roads shown on the plan be compatible with the County-wide 911 addressing protocol.
- 7) That prior to final approval for registration of any condominium corporation within this development, the applicant provides a parkland dedication or cash-in-lieu to the satisfaction of the Town of Plympton-Wyoming. The applicant also agrees, if requesting an extension of draft approval, that the date for calculation of cash-in-lieu of parkland will be from the date of the extension of draft approval.
- 8) That prior to final approval for registration of any condominium corporation within this development, the easements, as may be required for utility and/or drainage purposes, shall be granted to the appropriate authority.
- 9) That the applicant enters into a condominium agreement with the Town of Plympton-Wyoming which shall be registered on title to each of the condominium units. The condominium agreement shall satisfy all the requirements of the Town of Plympton-Wyoming, financial and otherwise, including but not limited to such matters as construction of the private road and provision of services and:
 - i. That prior to final approval of any phase (not the initial registration), the applicant's professional engineer is to provide certification to the Secretary-Treasurer of the Lambton Land Division Committee that all of the hard facilities and services (including landscaping and grading) have been installed or provided to ensure the independent operation of the corporation if no subsequent phases are created.
 - ii. In the alternative, if any facilities or services (including landscaping and grading) have not been installed sufficient that the condominium can operate independently if no additional phases are registered, the developer shall engage the services of a qualified quantity surveyor or professional engineer to provide a calculated amount of the required security for one hundred percent (100%) of the required works. Security shall be provided in the form satisfactory to the Town of Plympton-Wyoming, in an amount up to one hundred and fifteen percent (115%) of the calculated cost of the required works.
 - iii. That the provisions of the approved final stormwater management plan be incorporated into the condominium agreement with the Town of Plympton-Wyoming.
- 10) That prior to final approval of the initial registration or any subsequent phase by the Secretary-Treasurer of the Lambton Land Division Committee:
 - i. The applicant will register easements and a joint use and maintenance agreement for the benefit of the units, common elements and servient tenements to provide for:
 - (1) Rights of access to and use of joint facilities by all phases of the development.
 - (2) Responsibility for and distribution of costs for maintenance of joint facilities.Examples of such joint facilities include, but are not limited to, internal roads and services, gazebos, recreational structures and facilities, open space, play areas, visitor parking and entrance features.
 - ii. The initial registration has frontage on and vehicular access to an open public road.

- iii. The initial registration and final phase contain a minimum of 10 units each or phasing arrangements to the satisfaction of the Town of Plympton-Wyoming.
 - iv. The initial registration or registration of a phase will not divide existing or proposed structures.
- 11) That the applicant agrees:
- i. To submit a final stormwater management plan (that addresses water quality and quantity, erosion and sedimentation controls to be in place during and after construction) for review and approval by the Town of Plympton-Wyoming and the St. Clair Region Conservation Authority.
 - ii. To submit final grading and drainage plans (that address grading and drainage for each unit and erosion control measures) for review and approval by the Town of Plympton-Wyoming.
 - iii. To provide the St. Clair Region Conservation Authority with the details of the proposed work and the appropriate sediment and erosion control measures for any construction below the Regional flood elevation (i.e. stormceptor outlet to Pond 2). Construction will not be permitted in this area without written approval from the St. Clair Region Conservation Authority.
 - iv. To provide the St. Clair Region Conservation authority with written confirmation that NorthWest Consulting Engineers has reviewed and approved the proposed stormwater management plan from both a water quality and quantity perspective.
- 12) That the applicant obtains reserve sewage capacity from the Town of Plympton-Wyoming for the proposed development.
- 13) That prior to any construction on the subject lands, the applicant submits a copy of the results of the Phase 1 and Phase 2 environmental assessments being conducted by Golder and Associates Ltd. to the Town of Plympton-Wyoming and County of Lambton Planning and Development Services Department for review.
- 14) That the applicant submits a copy of the condominium declaration prepared for this development to the Town of Plympton-Wyoming and County of Lambton Planning and Development Services Department for review.
- 15) That the applicant shall carry out an archaeological assessment of the subject property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No grading or other soil disturbances shall take place on the subject property prior to the County of Lambton and the Ministry of Culture confirming that all archaeological resource concerns have met licensing and resource conservation requirements.
- 16) That the applicant obtain the appropriate permits from the Ontario Ministry of Natural Resources prior to the commencement of any work below the Regional flood elevation (i.e. stormceptor outlet to Pond 2).
- 17) That the applicant obtains capacity from Hydro One for the proposed development or, if necessary, that final approval of the plan be phased in accordance with the availability of electrical servicing.

- 18) That the applicant obtains capacity from Union Gas for the proposed development.
- 19) That the applicant obtain an Entrance permit from the County of Lambton Public Works Department for any future entrances (temporary or permanent), including modifications to any existing entrance providing access to County Road 7 (Lakeshore Road) shall and that the construction and maintenance of any future entrances be to the satisfaction of said County department.
- 20) That the applicant shall remove existing entrances surplus to the needs of the proposed development and the impacted areas restored to the satisfaction of the County of Lambton Public Works Department.
- 21) That the applicant shall provide additional drawings detailing the proposed entrance prior to commencing construction and that the drawings must depict the limits of all curbing, radii, grades and materials to the satisfaction of the County of Lambton Public Works Department.
- 22) That a registered deed depicting the required road widening along County Road 7 be submitted to the County of Lambton Planning Department.
- 23) That the applicant provide an amended "Landscape Plan" depicting no new plantings within the limits of the new road allowance to the satisfaction of the County of Lambton Public Works Department.
- 24) That the applicant be responsible for the maintenance of existing plantings and trees within the widened portion of the road allowance. The maintenance of all trees and plantings situated within the development but encroaching upon the road allowance shall be the responsibility of the applicant and be completed to the satisfaction of the County of Lambton Public Works Department.
- 25) That the applicant provide additional details to the County of Lambton Public Works Department regarding the construction of the proposed water and sanitary services to be located within the County Road 7 road allowance. All road crossings and installations shall be completed in accordance with the County of Lambton and Town of Plympton-Wyoming standards as well as all applicable provincial and federal legislation. The construction and installation of all services located within the County of Lambton road allowance shall not commence without the written approval of the County of Lambton Public Works Department.
- 26) That prior to final approval by the Secretary-Treasurer of the Lambton Land Division Committee, the County is advised in writing by the Town of Plympton-Wyoming how Conditions 2 through 14 have been satisfied.
- 27) That prior to final approval by the Secretary-Treasurer of the Lambton Land Division Committee, the County is advised in writing by the St. Clair Conservation Authority as to how Condition 11 has been satisfied.
- 28) That prior to final approval by the Secretary-Treasurer of the Lambton Land Division Committee, the County is advised in writing by the Ontario Ministry of Culture as to how Condition 15 has been satisfied.
- 29) That prior to final approval by the Secretary-Treasurer of the Lambton Land Division Committee, the County is advised in writing by the Ontario Ministry of Natural Resources as to how Condition 16 has been satisfied.

- 30) That prior to final approval by the Secretary-Treasurer of the Lambton Land Division Committee, the County is advised in writing by Hydro One as to how Condition 17 has been satisfied.
- 31) That prior to final approval by the Secretary-Treasurer of the Lambton Land Division Committee, the County is advised in writing by Union Gas as to how Condition 18 has been satisfied.
- 32) That prior to final approval by the Secretary-Treasurer of the Lambton Land Division Committee, the County is advised in writing by the County's Public Works Department as to how Conditions 19 through 25 has been satisfied.
- 33) That prior to the Secretary-Treasurer of Lambton Land Division Committee signing the Final Plan, the applicants shall submit:
 - one (1) original plan;
 - four (4) transparent duplicates;
 - six (6) white paper copies;
 - two (2) CD-ROMs with the final plan (AutoCad compatible) and;
 - three (3) copies of the Subdivision Agreement executed with the Town of Plympton-Wyoming.
- 34) That this approval of the draft plan applies for a period of nine (9) years from the draft approval date, with the exception of the initial registration which shall occur within three (3) years of the draft approval date. If final approval is not given within these time frames, the draft approval shall lapse, except in the case where an extension has been granted.

Jim Foubister
Chair

Madeline Pauschenwein
Deputy-Secretary-Treasurer