

REGION OF OTTAWA-CARLETON
RÉGION D'OTTAWA-CARLETON

REPORT
RAPPORT

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| Our File/N/Réf. Your File/V/Réf. | 15-94-3102, 15-94-3101, and 15-92-3102 |
| DATE | 10 October 2000 |
| TO/DEST. | Co-ordinator, Planning and Environment Committee |
| FROM/EXP. | Planning and Development Approvals Commissioner |
| SUBJECT/OBJET | DISPUTED REVISION TO DRAFT PLAN OF SUBDIVISION 06T-94007, FERNBANK SOUTH SUBDIVISIONS, TOWNSHIP OF GOULBOURN |

DEPARTMENTAL RECOMMENDATION

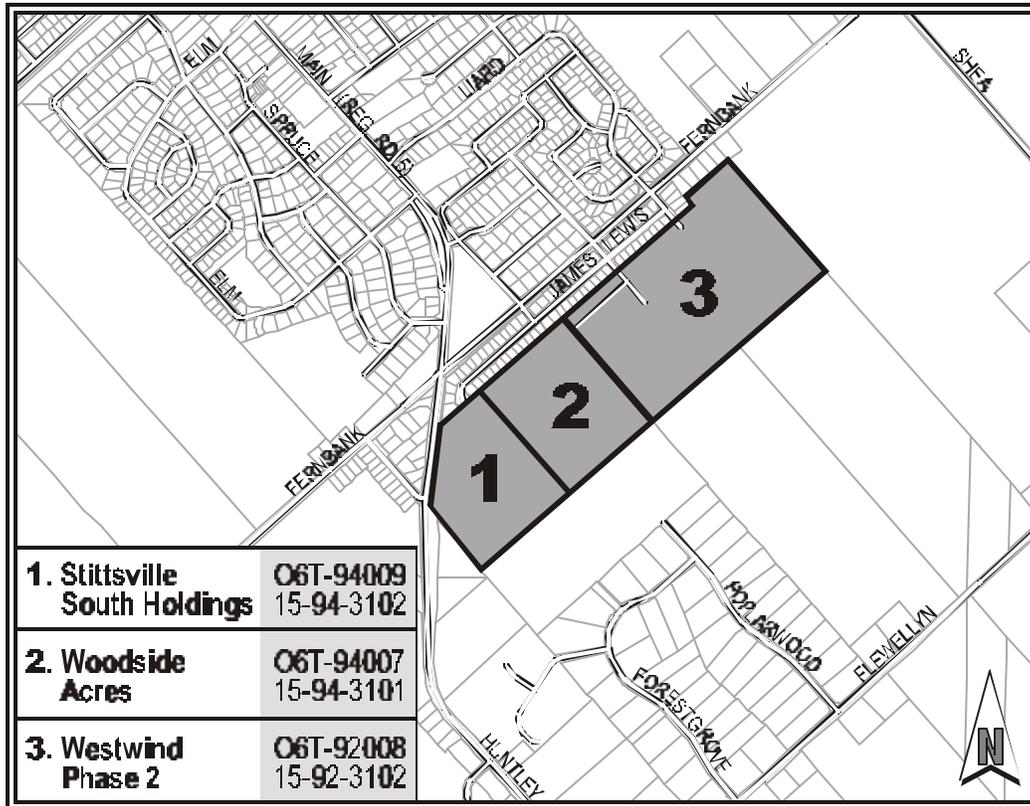
That the Planning and Environment Committee recommend that Council approve the proposed revisions to subdivisions 06T-94009, 06T-94007, and 06T-92008 as attached in ANNEX 2.

BACKGROUND

This matter is deemed disputed and is brought forward for the consideration of Planning and Environment Committee as a result of a letter, submitted by Kenneth Murchison, QC - solicitor for Woodside Acres Development, in which he objects to the proposed revisions to conditions of draft approval. A copy of the letter is attached as Annex 1.

LOCATION

The subject lands are located in the Village of Stittsville south of Fernbank Road, east of Main Street. There are three separate owners, but it is necessary to co-ordinate the provision of local services and works amongst and between the properties.



The subject property is designated “General Urban Area” in the Region’s Official Plan is designated “Residential,” in the Goulbourn Official Plan.

On 24 August 2000 Goulbourn requested that the Region, as approval authority, amend the conditions of the three subdivisions to include a clause which requires each landowner to share the costs of required local works. The request from Goulbourn was made in recognition that the three parties could not agree on a private cost-sharing agreement. Goulbourn sees this as a reasonable request to ensure the timely and orderly development of the subject lands. It is Goulbourn’s position that “none of the three developers should be held up by the absence of a private cost-sharing arrangement and none of the three owners are in any way prejudiced by the three amended conditions proposed.” A copy of the request from Goulbourn and a letter from Goulbourn’s solicitor replying to Mr. Murchison’s objection to the revised conditions are attached as ANNEX 2.

Staff Comment

There are no Regional Official Plan issues. The Region, as approval authority, is being requested by Goulbourn to assist in promoting the orderly and efficient development of the subject properties. The request is being made only in the absence of the three parties being able to agree upon a satisfactory cost sharing arrangement regarding the provision of local services and works. Staff view this request as reasonable, and agree with Goulbourn that it is in the public interest, represents good planning, and is intended to promote appropriate development of the subject properties. Accordingly, staff recommend approval of the proposed revisions.

CONSULTATION

As Regional Staff have satisfied Council's delegated responsibility under the Planning Act, 1990 to confer with those agencies and individuals with an interest in Draft Plans 06T-94009, 06T-94007, and 06T-92008, no further public consultation is necessary. Notice of the 10 October 2000 PEC meeting to consider the proposed revisions to these draft plans was communicated to Goulbourn, and to all affected parties.

FINANCIAL IMPLICATIONS

Not applicable.

CONCLUSION

The request to revise draft plan conditions comes about as a result of the failure of the three landowners to reach a satisfactory private cost-sharing arrangement. Goulbourn is seeking the Region's assistance in promoting orderly and efficient development of the affected properties. Staff concur with Goulbourn's request and recommend that the proposed revisions be approved.

*Approved by
N. Tunnacliffe, MCIP, RPP*

LOW, MURCHISON

BARRISTERS & SOLICITORS
TRADE MARK AGENTS

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ORIAN LOW, B.A., LL.B., Q.C. (RETIRED)
D. CAMPBELL BURNS, B.A., LL.B. (RETIRED)

*Certified by the Law Society of Upper Canada as
a Specialist in Bankruptcy and Insolvency Law

COPY

August 22, 2000

Via Facsimile: 831-2279
& Via Courier

Mayor Janet Stavinga
and Councillors
Township of Goulbourn
2135 Huntley Rd
Box 189
Stittsville ON K2S 1A3

Dear Madam:

Re: Woodside Acres Development Subdivision
Your File No.: 9905-0364

West Wind Phase 2 Subdivision
Your File No.: 9905-6623

Stittsville South Holdings Subdivision
Your File No.: 9405-9805

We are the corporate solicitors for Woodside Acres Development Corporation.

Ms. Janet Bradley has been retained by our client and others to deal with the proposed cost-sharing arrangements among the three subdivisions. We have been instructed as corporate counsel to go on record in expressing a vigorous objection of Woodside to the proposed amendments to the draft plan conditions of the three parties involved and in particular condition number 2 in the Woodside conditions as set out in Mr. Townend's report of August 15, 2000 numbered 2000-31.

Many months ago, our client had obtained approval to discharge its storm water over an easement

and storm water outlet to the south of its property and a great deal of time and expense was incurred in making this arrangement and obtaining environmental approval.

More recently, the Township has arbitrarily proceeded to revoke its approval of this storm water outlet and has attempted to impose a cost-sharing obligation for an oversized facility which appears to be required to deal with water coming from across Main Street without providing for any collect back against the owner of those lands. The cost of this facility is prohibitive and our client strongly objects to the imposition of these unjustifiable costs.

Our client's further objection relates to the following. Condition 54 in the regional West Wind conditions reads as follows:

"54. The owner agrees to construct at the owner's expense, the proposed sanitary sewer, storm sewer and watermain in Street No. 6 in its entirety and that these works be completed as part of Phase 1 of the subdivision."

This provides an obligation to provide these services along Laird Street as extended to the east side of the Woodside property. West Wind wishes to avoid or at least postpone its responsibility under its existing draft conditions and has proposed a Phase 2 which I understand would enable it to service only the northerly part of its subdivision around its school site so that it and a number of lots in that area could be developed and sold. If this concession is granted to West Wind, the result together with the cancellation of the original storm water outlet will completely isolate Woodside's subdivision making it impossible to sell its school site or develop its lots. The cost and losses to Woodside would be enormous.

It is our client's position that if the Township (and by the Region to the extent that it is involved) should accede to the Phase 2 proposal it would be unfair and completely contrary to its responsibility to act impartially among the interested parties. Our client is absolutely determined to protect its interest and to take whatever action is necessary to do so including a claim to recover the major losses which will undoubtedly be sustained.

Please take this as notice and act accordingly.

Yours truly,


Kenneth A. Murchison, Q.C.

KAM/vmn

Copy to: Director of Planning, RMOC

Bell Baker

BARRISTERS & SOLICITORS

James R. McIninch
 (613) 237-3448 ext. 331
 jmcininch@bellbaker.com

David C. Thompson, Q.C.

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Martin D. Owens

Roger R. Mills

Helmut R. Brodmann

Wade L. Smith

Nancy L. Miles

Gordon J. Kirk

John E. Summers

Counsel

John C. Clarke, Q.C.

September 21, 2000

✓COPY TO: MR. M. BOUCHER ✓

TO FAX: 236-7942 (2 pages)

Low, Murchison
 Barristers & Solicitors
 Twelfth Floor
 220 Laurier Avenue West
 Ottawa, Ontario
 K1P 5Z9

Attention: Mr. Kenneth A. Murchison, Q.C.

Dear Mr. Murchison:

RE: Woodside Acres Development
 Subdivision and

RE: West Wind Phase 2 Subdivision and

RE: Stittsville South Holdings Subdivision
Our File: 9905-6623

We are solicitors for the Corporation of the Township of Goulbourn. We have been provided with a copy of your letter dated August 22, 2000 addressed to the Mayor and Council.

It is our information and understanding that while Ms Janet Bradley had indeed been retained to prepare and ultimately have executed a cost sharing Agreement as between the three owner/developers noted above, the retainer was in fact terminated when the three said parties were unable to reach such an Agreement. The Township Council's request to the Region to make the amendments to the draft plan conditions for the three subdivisions was in recognition that the three parties could not agree on a cost sharing Agreement.

With respect to the third paragraph of your letter which indicates an "approval to discharge its storm water ... to the south" was given to Woodside, we are advised that approximately four and a half years ago staff indicated such an option would be available if necessary. However, that was on the understanding that Woodside



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was ready to develop and the abutting subdivisions were not. Your client did not want to be held up by the other subdivisions. The option to discharge to the south is no longer appropriate or necessary given that Woodside is not proceeding at this time and West Wind is proceeding at this time.

With respect to your comments regarding the lands west of Main Street, it is the Township's position that the lands which are developing now must take into account existing drainage (which is the Township's normal policy). The lands west of Main Street are not the subject matter of any development application at this time.

With respect to Condition 54 in the West Wind draft plan conditions, it is the Township's position (and such position has been conveyed to the owner of the West Wind lands) that while the owner will be permitted to develop its lands in orderly stages, if and when Woodside requires services at its plan boundary because Woodside has sold its school site or is ready to develop its lots, the West Wind developer will be obliged to construct those sewers and watermains. The Township will be taking security from West Wind for the whole of those works under Phase 1 of the West Wind Subdivision Agreement.

In summary, it is the Township's position that none of the three developers should be held up by the absence of a private cost-sharing arrangement and none of the three owners are in any way prejudiced by the three amended conditions proposed.

We trust that the foregoing will clarify the Township's position.

Yours truly

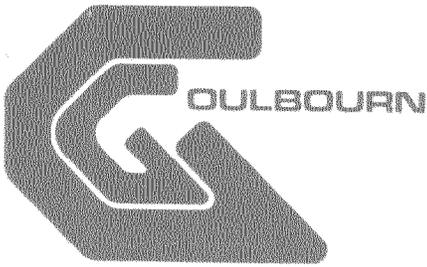
BELL BAKER



James R. McIninch
JRM:Cjcs

Copy to: Mr. B. Townend (831-2279)
Mr. G. Bourgon (592-5995)
Mr. D. Page (831-2279)
Mr. M. Boucher (560-6006)
Mr. M. Siddons (238-3382)
Mr. D. Choo, Stittsville South Holdings

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CORPORATION OF THE TOWNSHIP OF GOULBOURN, p.o. box 189, 2135 huntley road, stittsville, ontario, K2S 1A3 Tel. 613-831-2832
Fax. 613-831-2279

August 24, 2000

Mr. Mike Boucher
Regional Planner
Planning and Development Approvals Dept.
Regional Municipality of Ottawa-Carleton
111 Lisgar Street
Ottawa, Ontario K2P 2L7

Dear Mr. Boucher:

Re: Revisions to Conditions of Draft Approval
Stittsville South Holdings, Woodside Acres and 1302042 Ont. Inc.
Your Files: 15-94-3102, 15-94-3101 and 15-92-3102

Further to our recent telephone conversations concerning the Fernbank subdivisions, I am forwarding a copy of Resolution 129-2000 and Report 2000-31. The effect of this resolution is that the Township of Goulbourn is formally requesting that the Region exercise its authority to modify the conditions of Draft Approval through the addition of a cost sharing clause to each of the above noted subdivisions. The specific clause applicable to each of the subdivisions is contained in Report 2000-31.

I would appreciate if you could keep us apprised of the status of this request. Please feel free to contact me at 831-2837, ext. 258, if you have any questions.

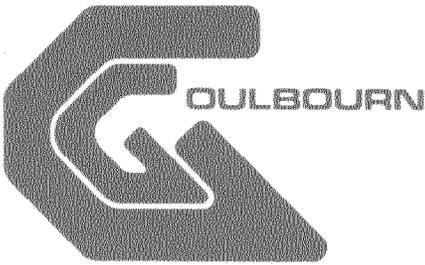
Yours truly,

Danny W. Page
E.D.O. and Planning Director

Encl.

cc: R. Bell, Woodside Acres
D. Choo, Stittsville South Holdings
B. Malhotra, 1302042 Ont. Inc.
J. McIninch, Bell Baker





CORPORATION OF THE TOWNSHIP OF GOULBOURN, p.o. box 189, 2135 huntley road, stittsville, ontario. K2S 1A3 Tel. 613-831-2832
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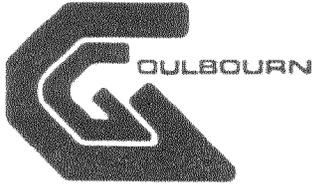
I, Shelley Goertzen, Deputy Clerk of the Corporation of the Township of Goulbourn, do hereby certify that the following is a true copy of a resolution passed by Goulbourn Township Council at a meeting held on August 15th, 2000

BE IT RESOLVED THAT the Council of the Corporation of the Township of Goulbourn hereby approves the attached amendments to the draft plan conditions for West Wind Phase 2 Subdivision, Woodside Crescent Development Subdivision and the Stittsville South Holdings Subdivision.

Given under my hand and the Seal of the said Corporation at the Township of Goulbourn this 24th day of August, 2000



Shelley Goertzen, Deputy Clerk



REPORT

TOWNSHIP OF GOULBOURN, Box 189, Stittsville, Ontario K2S 1A3 Tel. (613) 831-2832 - Fax (613) 831-2279

| | |
|---|---|
| To: Council | Date: August 15, 2000 |
| From: Bob Townend, CAO <i>Report No: 2000 - 31</i> | Subject: Draft Plan Amendments - West Wind Phase 2 - Woodside Crescent - Stittsville South Holdings |

BACKGROUND

The development of the area south of Fernbank Road and east of Main Street is divided amongst three developers, West Wood Phase 2 Subdivision, Woodside Crescent Development Subdivision, and Stittsville South Holdings Subdivision. The draft plan approvals that were issued contemplated that the three developers would work out a cost-sharing agreements amongst themselves. Unfortunately, after several attempts, the three have not been able to reach such an agreement on their own. In order to proceed, such a cost-sharing arrangement must now be imposed by the Township.

The Township has received a request from the solicitors of West Wind Phase 2 Subdivision to amend the draft plan conditions as approved for the three subdivisions. These amendments to each of the draft plan approvals would confirm the cost-sharing requirements of each party. Following review by the Township's solicitor, staff is prepared to support these amendments.

RECOMMENDATION

That Council pass a resolution approving the attached amendments to the draft plan conditions for West Wood Phase 2 Subdivision, Woodside Crescent Development Subdivision and the Stittsville South Holdings Subdivision.

STITTSVILLE SOUTH HOLDINGS INC.
(Provincial file #06T-94009/Regional file #15-94-3102(R2))

The Owner acknowledges and agrees that within the area to which the Owner's Plan relates certain local services to be installed by the owners of adjacent lands (which lands are identified as the Fernbank Subdivision owned by Woodside Acres Development Corporation being Provincial file #06T-94007 and Regional File #15-94-3101 (R3) and West Wind Subdivision owned by 1302042 Ontario Inc. being Provincial file #06T-92008 and Regional file #15-92-3102 (R3)) are services which shall benefit the Owner's lands and accordingly the Owner shall provide to the Township evidence satisfactory to the Township that as of the date of registration of the Owner's Plan the Owner has paid the Owner's share for all such local services installed or to be installed by the owners of the above-described adjacent lands or has entered into an Agreement or Agreements with such owners regarding satisfaction of the Owner's said share. For the purposes of this Condition "local services" shall mean the following works:

1. The construction of the watermain on the existing Cherry Drive from Fernbank Road to the Woodside Subdivision, and on the extension of Cherry Drive through the Woodside Subdivision to Arrow Wood Drive.
2. The construction of Arrow Wood Drive, including watermains, sanitary and storm sewers, utilities and road.
3. Construction of sanitary sewers and storm sewers on Liard Street in the West Wind Subdivision and the Fernbank Subdivision.
4. Realignment and construction of the Faulkner Municipal Drain, including temporary storm water management facilities; costs of acquisition of property and/or easements for the Drain; engineering costs; and municipal charges for required amendments to the engineer's report and updating of the assessment schedules for the Faulkner Municipal Drain.
5. Engineering costs for the preparation of the Traffic Study.
6. Upgrading of the Liard Street Sewage Pumping Station, including engineering costs.
7. Upgrading of the intersection at Main Street and Fernbank Road, including engineering costs.

**WOODSIDE ACRES DEVELOPMENT CORPORATION
(FERNBANK SUBDIVISION)
(Provincial file #06T-94007/Regional file #15-94-3101(R3))**

The Owner acknowledges and agrees that within the area to which the Owner's Plan relates certain local services to be installed by the owners of adjacent lands (which lands are identified as the West Wind Subdivision owned by 1302042 Ontario Inc. being Provincial file #06T-92008 and Regional File #15-92-3102 (R3) and the Stittsville South Holdings Inc. Subdivision being Provincial File #06T-94009 and Regional File #15-94-3102 (R2)) are services which shall benefit the Owner's lands and accordingly the Owner shall provide to the Township evidence satisfactory to the Township that as of the date of registration of the Owner's Plan the Owner has paid the Owner's share for all such local services installed or to be installed by the owners of the above-described adjacent lands or has entered into an Agreement or Agreements with such owners regarding satisfaction of the Owner's said share. For the purposes of this Condition "local services" shall mean the following works:

1. Construction of a watermain loop from the extension of James Lewis Drive to Baywood Drive, through the Stittsville South Holdings Subdivision.
2. Construction of sanitary sewers and storm sewers on Liard Street in the West Wind Subdivision.
3. Realignment and construction of the Faulkner Municipal Drain, including temporary storm water management facilities; costs of acquisition of property and/or easements for the Drain; engineering costs; and municipal charges for required amendments to the engineer's report and updating of the assessment schedules for the Faulkner Municipal Drain.
4. Engineering costs for the preparation of the Traffic Study.
5. Upgrading of the Liard Street Sewage Pumping Station, including engineering costs.
6. Upgrading of the intersection at Main Street and Fernbank Road, including engineering costs.

**1302042 ONTARIO INC.
(WEST WIND SUBDIVISION)
(Provincial file #06T-92008/Regional file #15-92-3102(R3))**

(a) The Owner acknowledges and agrees that within the area to which the Owner's Plan relates a certain local service to be installed by the owner of adjacent lands (which lands are identified as the Fernbank Subdivision owned by Woodside Acres Development Corporation being Provincial file #06T-94007 and Regional File #15-94-3101 (R3)) is a service which shall benefit the Owner's lands and accordingly the Owner shall covenant and obligate itself in the Subdivision Agreement to be entered into with Goulbourn that it shall pay its share of the local service to Woodside Acres Development Corporation or, alternatively, to the party owed the money for the said local service. For the purpose of this Condition the "local service" shall be defined as follows:

A water main feed on Cherry Drive from Fernbank Road to Baywood Drive.

(b) The Owner acknowledges and agrees that it will install certain local services which will benefit the owners of adjacent lands (which lands are identified as the Fernbank Subdivision owned by Woodside Acres Development Corporation being Provincial file #06T-94007 and Regional file #15-94-3101(R3) and the Stittsville South Holdings Inc. Subdivision being Provincial file #06T-94009 and Regional file #15-94-3102 (R2)) and that the Owner shall be compensated by the Owners of the above described adjacent lands for their respective share of the cost of the said local services pursuant to their obligations for Subdivision Approval which obligations shall be inserted into their respective Subdivision Agreements entered into with the Township of Goulbourn. For the purposes of this condition, the said local services shall include the following works:

1. Construction of sanitary sewers and storm sewers on the Liard Street extension through the West Wind Subdivision.
2. Realignment and construction of the Faulkner Municipal Drain, including temporary storm water facilities; cost of acquisition of property and/or easements for the Drain; engineering costs; and municipal charges for required amendments to the engineer's report and updating of the assessment schedules for the Faulkner Municipal Drain.
3. Engineering costs for the preparation of a Traffic Study.