

REPORT
PLANNING/BUILDING/ENVIRONMENTAL
COMMITTEE

DATE: September 14, 2020

REPORT NO: PD-121-2020

SUBJECT: Recommendation Report Application to Remove the Holding Symbol (Phelps Homes Ltd. – Wade Road Lot) and Closure of File No. 1601-004-17

CONTACT: Brian Treble, Director of Planning and Building

OVERVIEW:

- On May 25th, 2020, Township Council considered staff report, PD-064-20 that recommended authority to enter into a development agreement for the Wade Road lot in accordance with LPAT decision (Case No. PL170875).
- Previously, in November of 2011, by-law 2011-96 was approved by Township Committee and Council to rezone the Brookside Phase III Plan of Subdivision lands for future development. Also, included in that by-law amendment was a clause that placed a holding symbol on the Wade Road lands to the north of Twenty Mile Creek. The holding symbol was to remain on the lands until the Niagara Peninsula Conservation Authority (NPCA) was satisfied that development was possible (significant mapping was required) and until a further consultation with the neighbours had occurred.
- On June 26th, 2017 the Township of West Lincoln Committee and Council passed a new comprehensive zoning by-law which placed Environmental Zones (Environmental Protection and Environmental Conservation) on the subject lands since NPCA requirements had not been satisfied in the meantime.
- The zoning for the subject lands, as included in the comprehensive zoning by-law was appealed to the Ontario Municipal Board (OMB), now Local Planning Appeals Tribunal (LPAT), as it related to the subject lot being south of 125 Wade Road.
- Following the appeal, study work was completed by Phelps Homes Ltd such that the NPCA confirmed that a building site existed. Consultation with the neighbours occurred (April 9th, 2018) and a settlement between the Township of West Lincoln and Phelps Homes Ltd was reached after that.
- The settlement was presented to the Local Planning Appeals Tribunal (LPAT) at a Hearing on March 7th, 2019.
- On April 15th, 2020 LPAT issued a written decision in support of the settlement. Now the original application and its related file (1601-004-17) to remove the holding symbol can be deemed to be closed as LPAT has ordered approval of the by-law as found at attachment 5 to this report.

RECOMMENDATION:

1. That, Report PD-121-2020, regarding “Recommendation Report, Application to Remove the Holding Symbol (Phelps Homes Ltd. – Wade Road Lot) and Closure of File, File No. 1601-004-17”, dated September 14th, 2020, be RECEIVED;
2. That, file 1601-004-17 (application for removal of Holding Symbol) be and is hereby closed; and,
3. That, the by-law, as ordered by LPAT, be and is hereby approved (attachment 5).

ALIGNMENT TO STRATEGIC PLAN:

Theme #3

- **Strategic, Responsible Growth**

BACKGROUND:

If the new comprehensive zoning by-law had not been implemented, then the Removal of the Holding Zone process under the previous zoning by-law 79-14 as amended (by by-law 2011-96) would have been the appropriate planning process to follow and this file 1601-004-17 would then have required a decision of Township Council.

As noted and as found at attachment 2 to this report, the removal of the Holding Symbol required two actions. First, clearance from NPCA was required after mapping had been prepared in order for NPCA to confirm that a building site existed. Secondly, the by-law (2011-96) committed Council to consult with the neighbours before the holding symbol could be removed from the subject lands.

CURRENT SITUATION:

In July of 2017, Phelps Homes Ltd appealed the new Township comprehensive zoning by-law to the OMB (now LPAT) and simultaneously made application to remove the holding symbol from the zoning of the lands in the former comprehensive Zoning By-law 79-14, as amended.

One of the requirements that placed the Holding Symbol on the subject lands in 2011 was the need for mapping and as a result, there was an environmental exercise completed by consultants for Phelps Homes Ltd. Consultants were hired to map the extent of the flood plain, wetland, fish habitat and establish a 30 metre setback line. Further, Phelps Homes Ltd provided all necessary documents to the local conservation authority (NPCA) such that they ultimately agreed with mapping that informed the Township, applicant/appellant and NPCA that a building envelope existed outside of the regulated features, in the area as depicted on attachment 3.

Consultation with the neighbours also occurred on April 9th, 2018. Most neighbours continued to have concerns about environmental impacts even when just one single family residential lot was proposed. A recommendation was eventually supported by Council that recognized one residential building lot as scoped and refined with limits placed on the buildable area. Eventually, a settlement was presented to LPAT on March 7th, 2019 to permit one single family residential building lot and resolve Phelps Homes Ltd appeal against the new comprehensive zoning by-law.

Now that this settlement has been accepted by LPAT (attachment 4), the application for

removal of the Holding symbol (1601-004-17), as it affects zoning by-law 79-14 is no longer required.

The process to remove the Holding Symbol was the process that was used as a means to find an ultimate resolution of this matter, such that a final decision on the removal of the holding symbol is no longer required. Therefore, the application by Phelps Homes Ltd to remove the Holding Symbol, as dated July 24th, 2017, is deemed to be complete. Since no decision is now required on the removal of the Holding Symbol as a result of the LPAT acceptance of the settlement as part of the new comprehensive zoning by-law, the Planning file to remove the holding symbol can now be closed without a formal decision.

This report is written to inform Committee and Council of Township staff's action to close this file. The application ensured that a proper process was followed to reach a planning decision, but the removal of the Holding Symbol itself was not required.

Previous, staff report PD-064-20 undertook the necessary actions as required by LPAT to complete their decision to allow one building lot. The zoning by-law as ordered and approved by LPAT must also now be approved by Township Council.

FINANCIAL IMPLICATIONS:

Not applicable to this report.

INTER-DEPARTMENTAL COMMENTS:

No further comments are required to close this file.

CONCLUSION:

This report is written to advise Committee and Council that the removal of the holding symbol application for rezoning can now be closed by direction of Township Committee and Council due to the acceptance by LPAT of the settlement that was reached. The new comprehensive zoning by-law, as amended, by order of the LPAT will be in full force and effect as it relates to the subject lands, once a development agreement has been approved for the opening of the road, and the attached by-law has been adopted.

ATTACHMENTS

1. Location Map
2. Map of Holding zoning on lands (from by-law 2011-96)
3. Mapping of building lot outside 30 metre setback
4. LPAT Decision
5. By-law, ordered by LPAT, to be approved by Council

Prepared & Submitted by:



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Director of Planning and Building

Approved by:



Beverly Hendry
CAO