

DATE: September 11, 2023

REPORT NO: PD-45-2023

SUBJECT: **Recommendation Report – Removal of 1995 Development Agreement from Title of Pt Lot 31, Conc 6, Former Township of Gainsborough, now the Township of West Lincoln**

CONTACT: Brian Treble, Director of Planning & Building

OVERVIEW:

- In 1995, Alberto and Filomena Gallucci owned Pt Lot 31, Conc 6, Former Township of Gainsborough, now Township of West Lincoln, fronting onto the south side of Townline Road with the frontage of about 160.93m (528 ft) within the urban boundary to a depth of 60.96m (200 ft). The remainder uses part of the Agricultural designation.
- Applications for consent were submitted in 1994 and finalized in 1995 (application file no.'s B334/94WL, B335/94WL, B336/94WL, B337/94WL and B338/94WL. One of the conditions of approval of each consent was the signing and registration of a development agreement to address servicing, access and other related matters for these five new residential lots being created.
- A development agreement was signed on June 25, 1995 by the owner and Township (as authorized by By-law 1995-53 and registered on title on July 10, 1995).
- Today, the entirety of the subject lands are within the new urban boundary of Smithville as approved by Official Plan Amendment 62 and are being considered for potential purchase by a developer.
- The developer, as part of their due diligence, has determined that the 1995 agreement was registered against the entire property (including part 6) including the agricultural lands. See attachment 1 to this report.
- It has been requested that the agreement be removed from the Title to Part 6 as it does not relate to those lands. Staff support this request as the former agreement will simply confuse everyone in the future when urban development applications are processed and a new agreement is to be registered against the lands.
- Staff recommend that this report be supported to authorize the Mayor and Clerk to sign a by-law to authorize the release of the 1995 development agreement from the title to Part 6 of Attachment 1, being Parts 1 to 4 on a more recent survey as found at Attachment 2.

RECOMMENDATION:

1. That, Recommendation Report PD-45-2023, regarding “Removal of 1995 Development Agreement from Title of Pt Lot 31, Conc. 6, Former Township of Gainsborough, now the Township of West Lincoln”, dated September 11, 2023, be received; and,
2. That, a fee of \$2,000.00 be accepted as the application fee; and,
3. That, all legal costs for this process be covered by the applicant; and,
4. That, a by-law similar to the Draft By-law found at Attachment 3 to this report, be approved by Council to support the Mayor and Clerk having authority to remove the 1995 Development Agreement (registered on July 10, 1995 as RO697920) from the former retained lands being Pts 1 to 4 on the attached plan of survey affecting Pt Lot 31, Conc. 6 with legal description (Pt of North Half of Lot 31, Conc 6, Gainsborough as in RO818154, Township of West Lincoln (PIN 46077-0291).

ALIGNMENT TO STRATEGIC PLAN:

Theme #2

- **CHAMPION** strategic and responsible growth

BACKGROUND:

Applications for consent were submitted to the Regional Land Division Committee in 1994 and approved by Regional Land Division Committee on July 11, 1994 with 9 conditions. Conditions which included cash in lieu of parkland, road widening, rezoning, and development agreement as some of the key conditions.

At that time, only the frontage along Townline Road to a depth of 200 ft was considered to be within the urban boundary of Smithville with the remaining retained lands being around 14.6 hectares (36 acres +/-).

At that time, one condition was cleared following registration of a development agreement against title to the severed and retained lands. The retained lands were not in the urban boundary at that time and registration on title caused no concerns.

Now that the retained lands are within the Smithville Urban Boundary, as approved by OPA 62, it is best to remove the agreement from title so as to not cause confusion at the time of development of these lands (Phase 3).

CURRENT SITUATION:

The developer, as part of their due diligence, has determined that the 1995 agreement was registered against the entire property (including part 6). See Attachment 1 to this report.

It has been requested that the agreement be removed from the Title to Part 6 as it does not relate to those lands. Staff support this request as the former agreement will simply confuse everyone in the future urban development and a new agreement are to be registered against the lands.

Staff recommend that this report be supported to authorize the Mayor and Clerk to sign a by-law to authorize the release of the 1995 development agreement from the title to Part 6 of Attachment 1, being Parts 1 to 4 on a more recent survey as found at Attachment 2.

FINANCIAL IMPLICATIONS:

An application fee of \$2,000.00 was paid on August 24, 2023 and all legal fees will be covered by the applicant to have the agreement removed from title.

INTER-DEPARTMENTAL COMMENTS:

Planning Staff have consulted with the Clerks Department about this report and process.

CONCLUSION:

Staff support the request to remove the 1995 Development Agreement from title and recommend that an authorizing by-law be supported by Council to permit the Mayor and Clerk to sign the amending documents for removal of the development agreement from title of the retained lands being PIN 46077-0291.

ATTACHMENTS:

1. Severance Sketch, 1995
2. Plan of Survey, October 2022
3. Draft By-law

Prepared & Submitted by:



Brian Treble
Director of Planning & Building

Approved by:



Bev Hendry
CAO