

Township of Southgate

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Staff Report CAO2022-036

Title of Report: Flato Dundalk Meadows Inc. East Phase 7, 8 & 10
Subdivision Agreement Final Approval Report

Department: Administration

Council Date: July 6, 2022

Council Recommendation:

Be it resolved that Council receive staff report CAO2022-036 as information; and

That Council approve the Flato Dundalk Meadows Inc. East Phase 7, 8 & 10 Subdivision Agreement as presented; and

That Council approve the project securities requirement for the Flato Development Inc. residential projects in Dundalk and calculated based on 80% of the total securities required as per Southgate Development Policy D-14, being justified by their development history not requiring security draw by the Township, plus based on the number of development projects they have in progress, the amount invested in their project servicing works that is already installed and/or in the warranty/final acceptance approval process; and

That Council consider approval of the final Flato Dundalk Meadows Inc., Flato East Phase 7, 8 & 10 Subdivision Agreement by municipal By-law 2022-090 at the July 6, 2022 Council meeting.

Background:

A Subdivision Agreement is required by the Township of Southgate for all residential development projects where the lands being developed have no roads and requires the normal municipal services (lighting, sidewalks, stormwater, wastewater and water) and public servicing (cable TV, electricity, internet, natural gas, telephone, etc.) infrastructure. Similar to a site plan used to manage industrial and commercial projects, a Subdivision Agreement (SDA) is a robust version of a site plan agreement. A SDA is a broader document that deals with the following subjects (Articles) and issues to manage the project and the municipal risk associated with these types of developments. The following are the titles of the Articles in the SDA document:

- Interpretation (Definitions)
- Subject Lands and Preconditions for Servicing and Registration
- Special Provisions
- Conveyances and Payments to be Made
- Construction of Services
- Phasing Plan

- Drainage
- Acceptance and Ownership of Services
- Deadline for Completion of Services
- Financial Assurances
- Indemnification and Liability Insurance
- Developer's Additional Obligations during Servicing
- Driveway Locations, Mailboxes, and Roads
- Building Deposit Requirements
- Building Permit Requirements
- Occupancy Requirements
- Building Construction
- Covenants to be Registered on Title
- Lapsing of Agreement
- Stop Work Orders
- Breaches of Agreement
- Arbitration
- General Provisions

The following are Schedules and Forms included in the Subdivision document:

- Legal Description
- Conditions of Draft Plan Approval
- Variations and Exceptions from Standards Provisions of Agreement
- Lands to be Conveyed to the Township
- Easement to be Conveyed to the Township
- Form of Agreement for Easements
- Payments to be made to the Township
- Municipal Services to be provided by the Developer
- Covenants and Restrictions in every Contracts for the sale of lands & registration on titles
- List of Approved Plans
- Final Lot Grading and Drainage Certificate Form
- Letter of Credit requirements form

Southgate's lawyer Stephen Christie from Stutz Brown & Self provided the legal review and Township Engineer Ray Kirtz from Triton completed the Engineering review work to develop the Flato Agreement as a template for the Township to use for all future residential developments.

At the June 15, 2022 Council meeting staff report CAO2022-031 titled "Flato Dundalk Meadows Inc. Phase 7, 8 and 10 Subdivision Agreement Approval Report" was presented and the following amended motion was approved by Council. Deputy Mayor Milne as Chair of the meeting requested a recorded vote on the motion based on the discussions.

Moved By Councillor Dobreen; **Seconded By** Councillor Sherson;

Be it resolved that Council receive staff report CAO2022-031 as information; and

That Council approve the Flato Dundalk Meadows Inc. East Phase 7, 8 & 10 Subdivision Agreement as presented; and

That Council consider approval of the final Flato Dundalk Meadows Inc., Flato East Phase 7, 8 & 10 Subdivision Agreement by municipal By-law 2022-090 at the July 6, 2022 Council meeting; and

That Council direct staff to bring back a policy for consideration for subdivision agreements in relation to security requirements.

Yay (5): Deputy Mayor Milne, Councillor Dobreen, Councillor Sherson, Councillor Frew, and Councillor Shipston

Nay (1): Councillor Rice

Absent (1): Mayor Woodbury

No. 2022-398 Carried (5 to 1)

Staff Comments:

The changes made to the Flato Meadows Inc. (Flato East) Phase 7, 8 & 10 SDA are the following:

- On the first page another signatory company was added to the agreement to reflect that some lands from the Flato North project has been included in the Phase 7, 8 & 10 project;
- Section 2.4 (ix) added a reference to refer to the term "Treatment System" because of the sewage pumping station being installed;
- Section 3.2 added a section on discussing the "Dedication of Reserves as Public Highways";
- Section 4.2 deleted the word "telephone" and changed to use the term "communications" to reflect all type of suppliers in this space;
- Section 5.3 added reference to better describe and define what form electronic copies of drawings must be provided in;
- Section 5.4 (iii) & (iv) added a to the "Township Engineer";
- Section 5.5 (i) added term that "Requires the developer to test";
- Section 5.15 (i) added the word "Forcemain" because of the sewage pumping station requirement for this project;
- Section 5.15 (iii) (g) added the words "Sanitary Sewage Pumping Station has been commissioned and fully operational to set a condition of work to be completed before any residential occupancy permits are granted";
- Section 5.17 added information to report on the Sewage Pumping Station operations and conditions where the Township accepts the operation of the system;

- Section 11.3 (i) added the word “products” as part of this section on Liability Insurance.
- Section 12.9 added words to this section to allow the exporting of fill from the site for any excess material;
- Section 12.9 (vi) added reference to O. Reg. 406/19 for On-site & Excess Soil Management;
- Section 16.1 added a subsection (iii) to reflect Sewage Pumping Station as an operation related to the Ontario Building Code and occupancy requirements;
- Schedule A1 added a
- Schedule B added the Draft Plan Conditions for the project;
- Schedule D added 0.3 meter reserves;
- Schedule E made corrections to reflect changes made by the Engineers and Planners;
- Schedule G corrected the spelling of “Forcemain”; and
- Schedule K added the MPlan document.

Staff recommend approval of the Flato East Phase 7, 8 & 10 Subdivision Agreement by By-law and that Council approve the securities proposed at 80% based on the D-14 Development Policy.

The next steps in this process will be to approve by municipal by-law and execute the SDA for Flato East Phase 7, 8 & 10 residential development project.

Financial Impact or Long Term Implications

There is no financial impact to the municipality as a result of this report as all legal and engineering costs to review and finalize the Flato East Phase 7, 8 & 10 for this specific agreement and their development will be charged to the developer.

Flato Developments at the present time has posted \$3,969,842.70 to secure all of their projects except to cover Flato East Phases 7, 8 & 10, as calculated in the attached current Flato Dundalk Meadows Securities Summary document (Attachment #1). The new posted securities requirement with the addition of Flato East Phase 7, 8 & 10 will now increase to \$5,508,2125.11 required by the Township of Southgate for all of Flato Developments projects.

Flato Developments Inc. now have 7 different projects in various stages of development or in the 2 year warranty phase. Those developments being Flato West Phase 1, Flato West Block 75 Seniors Apartments, Flato North Phases 2A & 3, Flato North Phases 4, 5 & 6, Flato East Phase 2B, Flato East Phases 7, 8 & 10, Flato East Phase 11 and Flato Glenelg Carriage House Phase 1. Flato has requested in their attached email from Crozier Consulting Engineers (Attachment #3), that with the large sum of the securities they have provided as Letters of Credit (LC) securities as assurance for all of their projects in Dundalk. As a result they have

requested (see Attachment #2) that the Township consider their total security requirements be calculated at 80% of the sum of all their individual projects. The other factor is with so many active projects at varying stages of development, much of their Southgate approved work has been completed waiting for engineering inspection of the project infrastructure and is in the preliminary stage of acceptance approval or in the final acceptance warranty period. At the present time Flato has \$17,979,483.89 worth of infrastructure installed awaiting inspection, acceptance approval and/or in the warranty stage of the Township receiving these infrastructure assets.

Communications & Community Action Plan Impact:

This report has been written and presented to Council to communicate accurate information to the public.

Goal 3 - Promoting Health Services and Housing Choices

Action 3: The residents and businesses of Southgate envision a caring community which meets the needs of all ages and incomes for a healthy and comfortable life, even as our population grows and changes.

Strategic Initiatives 3-A (2019-2023): By means of appropriate policies, incentives and development partners, the Township will facilitate a significant increase in the supply and comfortable life, even as our population grows and changes.

Concluding Comments:

1. That Council receive this staff report as information.
2. Triton has reviewed the all the supporting documents related to easement, block conveyances, plans, studies and reports on securities as confirmed in the Attachment #3 document.
3. That Council consider approval of the Flato East Phase 7, 8 & 10 Subdivision Agreement for residential developments by Township municipal By-law 2022-090 at the July 6, 2022 meeting.
4. Council has already approved the allocation of 177 residential units (RU) of water and wastewater reserve service capacity for 132 single family and 56 townhomes (total of 188 homes) in the Flato East Phase 7, 8 & 10 project at the December 16th, 2020 Council meeting and approved by Municipal By-law 2020-120 for the Flato East Phase 7, 8 & 10 Final Capacity Allocation Agreement.
5. The final step is the approval of the Planners recommendation to lift the Holding condition on the Flato East Phase 7, 8 & 10 project so it is then ready for registration after the securities required have been posted.

Respectfully Submitted,

CAO approval: Original Signed By

Dave Milliner – CAO
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PW approval: Original Signed By

Jim Ellis – Public Works Mgr.
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Planning approval: Original Signed By

Clint Stredwick – Municipal Planner
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Attachments:

- Attachment 1 – Current Flato Developments Securities Summary Report in the Township of Southgate
- Attachment 2 – Flato-Crozier email requesting security reduction dated March 24, 2022
- Attachment 3 – Triton Memorandum on Flato Phase 7, 8 & 10 Review