Date       Wednesday, June 17, 2020

From       Jenn Burnett, Planner

Subject    Subdivision Agreement Securities and Reductions

Report     PL.2020.30

Recommendation

That Report PL.2020.30 Subdivision Agreement Securities and Reductions be received for information.

Background

In response to a request from a land developer to reduce the securities required to guarantee the approved subdivision works for a plan of subdivision, Council directed staff to report back on the implications of such a reduction. The following report contains a brief overview of securities required through the subdivision agreement and implications for reducing securities.

Analysis

Securities Required Through the Subdivision Agreement

The security in a subdivision agreement is based on the cost estimate that the developer’s engineer submits. This cost estimate is an itemized list of the works approved for the development of the subdivision. In addition, it contains a 15% contingency fee to cover unplanned costs that may arise at the development stage, engineering fees and HST. Appendix A is the cost estimate submitted for the Kilsyth Subdivision agreement. This represents the amount of money the developer’s engineer has calculated that it will cost to build the road and the 2 stormwater features.

Implications for Reducing Securities
A reduction of required securities results in a deficit of funds that would be used to complete or repair the approved works. If the Township is required to complete or repair the approved works, the Township, through the subdivision agreement, would draw on the security to do this. If there is insufficient security, the Township will need to pay the outstanding amount.

The subdivision agreements that are presented to Council are formatted and reviewed with consideration given to a minimum of a 100% security deposit. The conditions in the agreement for the release of the security are related to the minimum 100% security and do not contain other provisions to protect the Township in the event that the security is reduced. The subdivision agreements would need to be revised by the Township’s lawyer to ensure that it contains new provisions to ensure that the risk to the Township is minimized if the security is reduced.

Comments received from the Township’s solicitor on review of the developer’s previous request to reduce the security note that a 100% security is a standard practice in other municipalities based on the subdivision agreements that she has reviewed.

Township planning staff are not qualified to conduct a risk assessment of reducing the security and would suggest that Council consider obtaining an opinion from its insurance provider to evaluate that risk.

**Conclusion**

The collection of the securities to guarantee the works approved in a subdivision agreement is a fairly straight-forward process. The security is taken as a guarantee that the proposed works will be completed as approved and that there are sufficient funds available to ensure the development is completed. The Township of Georgian Bluffs has consistently and fairly applied a security of no less than 100% of the estimated cost of the works, across all of its subdivision agreements. The Township’s lawyer, who reviewed the agreement verified that a 100% security is a standard practice.

It is recommended that Report PL.2020.30 Subdivision Agreement Securities and Reductions be received for information.

Respectfully Submitted:

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Planner