

Staff Report

Report To: City Council

Report From: Sabine Robart, Manager of Planning & Heritage

Meeting Date: January 29, 2024

Report Code: CS-24-007

Subject: Draft Minutes of Settlement respecting Appeals of City Approved Zoning By-law Amendments 44 (OLT-23-000419) and 48 (OLT-23-000699), and Consent B06-2023 (OLT-23-000804)

Recommendations:

THAT in consideration of Staff Report CS-24-007 respecting Draft Minutes of Settlement respecting Appeals of City Approved Zoning By-law Amendments 44 (OLT-23-000419) and 48 (OLT-23-000699), and Consent B06-2023 (OLT-23-000804), City Council receives the report for information purposes.

Highlights:

- Villarboit appealed ZBA 44 (Sydenham Square) to the Ontario Land Tribunal (OLT-23-000419). Sydenham Square appealed ZBA 48 (Villarboit/Heritage Grove) to the Ontario Land Tribunal (OLT-23-000699). Thompson Centres appealed ZBA 48 (Villarboit/Heritage Grove) to the Ontario Land Tribunal (OLT-23-000699). Villarboit/Heritage Grove appealed Committee of Adjustment approval of consent for easement B06-2023 to the Ontario Land Tribunal (OLT-23-000804).
- The appeals were consolidated, and a Procedural Order issued by the Ontario Land Tribunal (OLT) set out the requirements for the appeal process including an experts meeting.

- Based on the experts 'Agreed Statement of Facts' (ASF) developed through the experts meeting, draft minutes of settlement have been prepared through without prejudice discussions between the solicitors for the parties.
- The draft minutes of settlement will be presented to Council during the closed session for consideration. If Council is in support of the terms of settlement, a by-law to authorize the Mayor and Clerk to execute the draft Minutes of Settlement will be passed and enacted.
- If approved, at the hearing on February 12, 2024, the ASF and the draft Minutes of Settlement will be presented to the Tribunal.
- After the hearing, the Tribunal will provide a written order laying out the decision. The written order will include the Minutes of Settlement and will be published on the Tribunal's [Case Status](#) website. The decision will be provided to Council in an open report once it is available.

Strategic Plan Alignment:

This report supports the delivery of Core Service.

Climate and Environmental Implications:

There are no anticipated climate or environmental impacts.

Previous Report/Authority:

[City of Owen Sound Official Plan \(2021\)](#)

[City of Owen Sound Zoning By-law 2010-078, as amended](#)

ZBA 44 – Sydenham Square

[CS-23-016 Technical Report – Zoning By-law Amendment No. 44 – 2275 16th Street East](#)

[CS-23-037 Recommendation Report – Zoning By-law Amendment No. 44 – 2275 16th Street East](#)

[CS-23-065 Appeal of Council's Approval of Zoning By-law Amendment No. 44 by Villarboit \(Owen Sound\) Holdings Limited Partnership and Heritage Grove Centre Inc. under Section 34 of the Planning Act](#)

Staff Report CS-24-007: Draft Minutes of Settlement respecting Appeals of City Approved Zoning By-law Amendments 44 (OLT-23-000419) and 48 (OLT-23-000699), and Consent B06-2023 (OLT-23-000804)

ZBA 48 Heritage Grove

[CS-23-071 Technical Report – ZBA 48 – 2125 16th Street East \(Heritage Grove Centre\)](#)

[CS-23-076 Recommendation Report – ZBA 48 – 2125 16th Street East \(Heritage Grove Centre\)](#)

[CS-23-085 Appeal of Council’s Approval of Zoning By-law Amendment No. 48 \(Heritage Grove\) by Sydenham Square Inc. and Thompson Centres under Section 34 of the Planning Act](#)

Consent B06-2023

[B06-2023 Consent for Access Easement Heritage Grove Centre Inc.](#)

Background:

Process to Date

| Date | Event |
|--------------------|---|
| April 17, 2023 | Council approved ZBA 44 – Sydenham Square at 2275 16 th Street East |
| May 8, 2023 | Villarboit appealed ZBA 44 (Sydenham Square) to the Ontario Land Tribunal (OLT-23-000419) |
| May 29, 2023 | Council confirms its approval of ZBA 44 through Report CS-23-065 |
| June 26, 2023 | Council approved ZBA 48 – Villarboit/Heritage Grove at 2125 16 th Street East |
| July 10 & 17, 2023 | Sydenham Square appealed ZBA 48 (Villarboit/Heritage Grove) to the Ontario Land Tribunal (OLT-23-000699) Thompson Centres appealed ZBA 48 (Villarboit/Heritage Grove) to the Ontario Land Tribunal (OLT-23-000699) |
| July 18, 2023 | Committee of Adjustment approved Consent application B06-2023 by Villarboit/Heritage Grove, |

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| | |
|-------------------|---|
| | the effect of which was to permit an access easement to be registered in favour of Sydenham Square over the Heritage Grove property |
| July 24, 2023 | Council confirms its approval of ZBA 48 through Report CS-23-085 |
| August 18, 2023 | Villarboit/Heritage Grove appealed B06-2023 to the Ontario Land Tribunal (OLT-23-000804) |
| August 28, 2023 | 1 st Case Management Conference Consolidation of appeals |
| November 17, 2023 | 2 nd Case Management Conference Draft Procedural Order & Issues List Hearing Dates |
| November 30, 2023 | Procedural Order issued by OLT |
| January 12, 2024 | Experts Meeting (Engineering, Planning, Market) |

Analysis:

Procedural Order

The procedural order issued by the OLT on November 30, 2023 required that the parties hold an experts meeting on or by January 12, 2024.

Separate expert meetings were scheduled with Planning and Transportation experts as well as Market experts.

The draft minutes of settlement will be presented to Council during the closed session for consideration. If Council is in support of the terms of settlement, a by-law to authorize the Mayor and Clerk to execute the draft Minutes of Settlement will be passed and enacted.

If approved, at the hearing on February 12, 2024, the ASF and the draft Minutes of Settlement will be presented to the Tribunal supported by expert evidence.

Anticipated Next Steps

| Date | Event |
|-------------------|--|
| January 31, 2024 | Final Agreed Expert Statement of Facts and Minutes of Settlement |
| February 12, 2024 | OLT Hearing |

After the hearing, the Tribunal will provide a written order laying out the decision. The written order will include the Minutes of Settlement and will be published on the Tribunal's [Case Status](#) website. The decision will be provided to Council in an open report once it is available.

Financial Implications:

As outlined in the reports that followed the appeals, there have been costs to the City associated with the appeals. The costs relate to legal representation and the provisions of technical expert services.

Communication Strategy:

If approved, the Minutes of Settlement will be presented at the OLT Hearing commencing February 12, 2024. Following a decision by OLT, staff will ensure that the Tribunal decision and associated minutes of settlement are part of an open meeting agenda.

Consultation:

City Solicitor (H. Elston), Manager of Engineering Services

Attachments:

None.

Recommended by:

Sabine Robart, M.SC. (PL), MCIP, RPP, Manager of Planning & Heritage

Pam Coulter, BA, RPP, Director of Community Services

Submission approved by:

Phil Eagleson, Fire Chief (Acting City Manager)

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For more information on this report, please contact Sabine Robart, Manager of Planning & Heritage at srobart@owensound.ca or 519-376-4440 ext. 1236.