

Staff Report

Report To: City Council
Report From: Sabine Robart, Manager of Planning & Heritage
Meeting Date: July 7, 2025
Report Code: CS-25-074
Subject: Update Respecting Ontario Land Tribunal Decision - ZBA No. 44 Telfer Creek Square and ZBA No. 48 Heritage Grove

Recommendations:

THAT in consideration of Staff Report CS-25-074 respecting an update of the Ontario Land Tribunal Decision regarding appeals of City approved Zoning By-law Amendments No. 44 Telfer Creek Square (OLT-23-000419) and No. 48 Heritage Grove (OLT-23-000699), and Consent B06-2023 (OLT-23-000804), City Council receives the report for information purposes.

Highlights:

- The Ontario Land Tribunal issued its Decision and Order on June 27, 2024. On April 01, 2025, the Tribunal provided a corrected version of the Decision, which replaced the Decision issued on June 27, 2024 (attached as Schedule A).
- The Decision provides for certain site design matters, including water connection and access, as well as revisions to the zoning by-law amendment applicable to the Heritage Grove lands.
- The Minutes of Settlement and zoning policy have been, and will continue to be, incorporated into site plan approvals and site plan agreements (as schedules of the agreement) relating to both the Sydenham Square and Heritage Grove properties.
- The City incurred legal costs and consulting costs over 2023 and 2024 in excess of \$100,000.

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:

[Planning Act](#)

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

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

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

[CS-23-037](#) Recommendation Report – ZBA No. 44 – 2275 16th Street East (Telfer Creek Square)

[CS-23-076](#) Recommendation Report – ZBA No. 48 – 2125 16th Street East (Heritage Grove Centre)

[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

[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

[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)

CS-24-008 – Closed session report

Background:

City Council approved an amendment to the City’s Zoning By-law to permit a mixed-use development on the subject lands (ZBA No. 44) Telfer Creek Square by Sydenham Square Inc.

City Council approved an amendment to the City's Zoning By-law to permit a commercial development including a grocery store on the subject lands (ZBA No. 48) Heritage Grove by Villarboit (Owen Sound) Holdings Limited Partnership and Heritage Grove Centre Inc.

An appeal to the Ontario Land Tribunal (OLT) was received on May 8, 2023 regarding ZBA 44 Telfer Creek Square (Sydenham Square Inc) from Villarboit (Owen Sound) Holdings Limited Partnership and Heritage Grove Centre Inc.

An appeal to the Ontario Land Tribunal (OLT) was received on July 10, 2023 regarding ZBA 48 Heritage Grove from Sydenham Square Inc and Thompson Centres.

Heritage Grove Inc. also appealed the conditional approval of B06-2023, a consent for an access easement across the Heritage Grove lands in favour of the adjoining Sydenham Square lands.

Through Staff reports CS-23-065 and CS-23-085, Council was informed of the appeals and confirmed its support and approval of the zoning by-law amendments. Council had approved both zoning by-law amendments.

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 expert meeting.

Based on the experts' 'Agreed Statement of Facts' (ASF) developed through the experts meeting, draft minutes of settlement were prepared through without prejudice discussions between the solicitors for the parties. The draft minutes of settlement were presented to Council through CS-24-007 and CS-24-008 (closed session) and approved by Council.

The minutes of settlement were presented to the Ontario Land Tribunal on February 12, 2024.

The Ontario Land Tribunal issued its Decision and Order on June 27, 2024. On April 01, 2025, the Tribunal provided a corrected version of the Decision, which replaced the Decision issued on June 27, 2024 (attached as Schedule A).

In summary, the Minutes of Settlement (MOS) provide for:

Water Connection

- Two water connections at or near the Sydenham Square property, to be made to the waterline owned by the City and located in an easement on the Villarboit lands.
- It is intended that these connections will provide water services to the Sydenham Square lands.
- Sydenham Square shall provide temporary access to Villarboit onto the Sydenham Square lands for the purpose of completing the construction of such water service connections.
- Villarboit shall promptly upon request by the City of Owen Sound grant an easement as required by the City of Owen Sound for the portion of the water connections for which there are no easements as depicted on Schedule "E", so as to ensure the connection abuts the Sydenham Lands.
- Villarboit will construct, install and maintain the watermain and connections.
- The construction of the water services will be in accordance with normal engineering practices such that Sydenham Square can service its site with a water loop in accordance with good and generally accepted engineering practices, for instance by a requirement that two connections be provided which will be capped at the Sydenham Square property line.
- Villarboit will provide its consent, and will not object, to a City requirement to construct the portion of the waterline required to service the Sydenham Square lands within the Water Easement as a condition of any development approval provided by the City.

Private Driveway – Access Easement

- Villarboit agrees to construct, install and maintain the driveway.
- Villarboit agrees that it will construct the asphalt surface of the Sydenham Easement to the widths provided for in the Sydenham Easement and that any concrete curbing will be constructed within the Sydenham Easement unless doing so would reduce the asphalt width to less than 7.5 m. Villarboit further agrees to construct the asphalt surface at the access point to the Sydenham Square lands at a minimum width of 7.5 m.

Zoning By-law No. 2023-082

- By-law 2023-082 (ZBA 48, Heritage Grove) was revised through the MOS.

- Specifically, the revisions removed the holding provisions regarding access and market retail impact.
- The market retail impact holding was replaced with GFA provisions that were established through previous zoning by-law amendments and associated market retail impact analysis.

Analysis:

As noted above, the Decision provides for certain site design matters, including water connection and access, as well as revisions to the zoning by-law amendment applicable to the Heritage Grove lands to implement GFA provisions that were previously approved through site-specific zoning by-law amendment.

The access easement matters have been addressed through the finalization of the consent (B06-2024), which included the registration of an easement and easement agreement on the title of both the Heritage Grove and Sydenham Square lands. This easement has now been registered.

The watermain has been detailed in site plan drawings and agreement of ST2024-001, which provided for the construction of a new 3,252 square metre grocery store together with an attached 1,310 square metre retail unit (Fresh Co and PetSmart) on the Heritage Grove lands. The City easement for this watermain remains outstanding; however is a requirement of the site plan agreement for Heritage Grove.

The Decision authorizes the City's Clerk to assign a number to the amended Heritage Grove zoning by-law amendment for record-keeping purposes. This housekeeping matter is being implemented.

Since the June 27, 2025, Decision by the OLT, Heritage Grove has applied and been approved for two Site Plan Approval applications on its lands (2125 16th Street East). As noted above, ST2024-001 provided for the construction of a new 3,252 square metre grocery store together with an attached 1,310 square metre retail unit (Fresh Co and PetSmart) and ST2025-002 provided for a new 2,803 square metre commercial building (Princess Auto).

The approved site plan and agreements incorporate the Minutes of Settlement into the agreement, with the Minutes of Settlement forming a schedule in the site plan agreement.

Sydenham Square Inc. has completed pre-consultation with the City and is working towards applying to remove the Holding and Site Plan Approval. The Minutes of Settlement will be incorporated into future site plan agreements as schedules of the agreement, in a similar manner to the Heritage Grove agreements.

Financial Implications:

The City incurred approximately \$110,000 in external legal and consulting expenses related to the above-noted appeals during the 2023 and 2024 fiscal years. This was identified in the 2024 Year-End Financial Report ([CR-25-024](#)) as a notable contributor to year-end financial variances.

In addition, staff from Planning, Engineering, and the Director of Community Services dedicated significant time to the appeals process. No ongoing financial impacts are anticipated as a result of the Tribunal's Decision. The approved Minutes of Settlement will be incorporated as schedules to future site plan agreements, supporting enforceability of development conditions and helping to avoid future legal or administrative costs.

Communication Strategy:

No further consultation required.

Consultation:

Deputy Treasurer & Manager of Legislative Services

Attachments:

Schedule A – Ontario Land Tribunal Decision and Order issued June 27, 2025 and corrected April 01, 2025 (including Minutes of Settlement)

Recommended by:

Sabine Robart, M.SC. (PL), MCIP, RPP, Manager of Planning & Heritage
Pamela Coulter, BA, RPP, Director of Community Services

Submission approved by:

Tim Simmonds, City Manager

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