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SERVICING PROTOCOL: RELEASING CONDITIONS OF DRAFT PLAN OF SUBDIVISION APPROVAL

The Planning and Economic Development Committee recommends the following:

- 1. The communication from Fraser L. Nelson, Chair, GTHBA-UDI York Chapter, March 5, 2007, be received and referred to staff; and**
- 2. The recommendations contained in the following report dated February 27, 2007, from the Commissioner of Planning and Development Services and the Commissioner of Transportation and Works, be adopted:**

1. RECOMMENDATIONS

It is recommended that:

1. This report be circulated as a draft to the Clerks of the Municipalities of Vaughan, Markham, Richmond Hill, Aurora, Newmarket, East Gwillimbury, King and Whitchurch-Stouffville to allow for further consultation.
2. Staff report back upon further consultation with recommendations on proceeding with further release of conditions of draft plan of subdivision approvals.
3. The following draft policy principles be reviewed and considered through the consultation process as amendments to the policy previously adopted by Council on February 16, 2006:
 - a. Duffin Creek WPCP Environmental Assessment must be approved by the Province and construction completion be achievable in 4 years prior to any release of conditions of draft plan of subdivision approval.
 - b. The release of Regional conditions of draft plan of subdivision approval for an additional one year supply of draft plans, without servicing allocation, be premised on:
 - i. Conditions of draft approval of plans of subdivision be released which represent 70% of one year's growth Region-wide; and
 - ii. A reserve, which represents 30% of one year's growth Region-wide, be set aside for development applications that achieve strategic intensification within the Regional Centres and Corridors or Local Centres and Corridors as set out in *Attachment 4*.

- c. The conditions for draft plan of subdivision approval for this one year of growth, identified in recommendation (b), be also subject to the following:
 - i. The inclusion of the condition that the Southeast Collector Sewer to be within 6 months of completion prior to registration, or alternative sewer capacity determined such as in-pipe storage on an interim basis; and
 - ii. The planning criteria for release of Regional Conditions of Draft Approval as set out specifically in the report entitled “Water and Wastewater Servicing Protocol - Provision of Regional Conditions For Draft Approval” adopted by Council on February 16, 2006 have been met;
 - iii. New draft plan of subdivision approval be given priority on the basis of the following strategic goals, as a minimum threshold, that may be further refined by the local municipalities:
 - 1. The draft plan provides for the implementation of key Regional or local planning and/or infrastructure priorities;
 - 2. The draft plan provides for the implementation of the Transit Oriented Development as outlined in the Regional Guidelines and provides for enhanced transit usage;
 - 3. The draft plan provides for intensification and/or infill;
 - 4. The draft plan serves to work towards the completion of an existing community or neighbourhood;
 - iv. Prior to draft plan of subdivision approval “No Pre-sales Agreements” and “Indemnity Agreements” are to be entered into;
 - v. New approvals will be subject to an interim infrastructure “trigger table” that outlines local municipal specific Regional water and wastewater infrastructure requirements in 2011 outlined in *Attachment 3*;
 - vi. Conditions of draft plan of subdivision approval be provided to the local municipalities only at the request of the local municipality, as it remains at the local municipality’s determination if it is appropriate to proceed with Draft Approvals in advance of servicing allocation.

2. PURPOSE

The purpose of this report is to provide opportunity for further consultation on a proposed refined framework for the controlled phased release of Regional Draft Plan of Subdivision conditions to the local municipalities for plans of subdivision applications which require the wastewater capacity from the Duffin Creek Water Pollution Control Plant (WPCP) expansion.

This refinement is intended to allow the planning process to move forward in a limited manner by providing an interim (one year) level of draft approvals prior to the approval of the Individual Environmental Assessment for the Southeast Collector. This refined framework *does not* provide any servicing allocation. It also does not pre-empt the ongoing Regional or local growth management exercises that will direct future growth.

It is important to note that without the additional capacity provided by the expansion of the Duffin Creek WPCP, new servicing allocation cannot be granted and forecast growth rates in the Regional Official Plan beyond 2010 cannot be met.

Directions for further reporting and next steps are also outlined in this report for development beyond the proposed one year release. It should be noted that this refined framework deals solely with proceeding with draft approvals of plans of subdivision and does *not* provide any further servicing allocation.

3. BACKGROUND

In order to provide wastewater capacity to development beyond 2010 within the York-Durham Sanitary System (YDSS), both the Duffin Creek WPCP expansion and the Southeast Collector Sewer are required to be operational.

The Environmental Assessment Report filed in September 2006 for the plant expansion is expected to receive approval from the Minister of the Environment (MOE) shortly. The plant is expected to be operational by the end of 2010, provided the MOE approval is granted in time for construction to begin at the start of this year's construction season. The Southeast Collector Sewer is in the final stages of the Individual Environmental Assessment which will be filed in June of this year.

Managing the risk of completion on time associated with the current status of these key pieces of infrastructure and the commitments to keep the planning process moving are key factors in a refined proposal. This proposal is to continue draft approvals of plans of subdivision in a carefully planned approach until there is certainty of servicing established.

The Environmental Assessment approval and a confirmation that the infrastructure can be completed within 4 years is essential prior to the Region providing conditions of draft approval of subdivision for development dependant upon this key infrastructure.

3.1 Current Servicing Protocol: Criteria for Providing Regional Conditions of Draft Plan of Subdivision Approval

On February 1, 2006, Council adopted a set of criteria detailing timeframes, planning policies and studies, and tools that need to be in place prior to the Region providing conditions of draft plan of subdivision approval to the local municipalities serviced by the YDSS (detailed criteria are outlined in *Attachment 1*).

These criteria built upon and reaffirmed the approval process adopted by Council in June 2003 in the “Management of Servicing Capacity Allocation” report. The flow chart shown in *Attachment 2* illustrates how the 2006 criteria fit with the 2003 policy. The key point to note is the requirement for EA approval in this process. Given the outstanding EA approvals for the Duffin Creek WPCP and Southeast Collector Sewer (scheduled to be filed in June 2007), a managed approach needs to be considered to release any further Regional conditions of draft plan of subdivision approval in 2007.

3.2 Progress Implementing the Planning Tools

Since the adoption of the Servicing Protocol in June 2005, and further refinement in February 2006, a number of the tools have been put in place and utilized by local municipalities:

- A servicing capacity monitoring system has been developed to track the progress of development and servicing allocation in the YDSS.
- Eight of the nine local municipalities have Section 34(5) By-laws enacted.
- Holding by-laws are being enacted by municipalities for applications until required site specific infrastructure is within 6 months of completion.
- “No pre-sales agreements” have been used by municipalities where the required site specific infrastructure is not yet within 12 months of completion.
- Detailed conditions have been included for Draft Plans of Subdivision which outline specific infrastructure requirements.

Even with these tools implemented at the local level, the key issue remains the approval and construction timing of the critical infrastructure of the Duffin Creek WPCP expansion and Southeast Collector Trunk Sewer ensuring limited Regional liability until the infrastructure is operational.

In proceeding with the release of regional conditions of draft plan of subdivision approval for development relying on the Duffin Creek WPCP expansion (i.e. without allocation), some of these conditions are proposed to be supplemented.

3.3 Consultation

Regional staff consulted with the local municipalities and the development industry through the Fall of 2006 and Winter of 2007 to discuss how development approvals might precede post 2010 given the status of the Environmental Assessments for both the Duffin Creek WPCP and the Southeast Collector while appropriately managing risk. The key points raised are outlined in *Attachment 5*. The issues raised were all considered in the establishment of the recommended protocol.

4. ANALYSIS AND OPTIONS

The first principle of this proposal is that the Duffin Creek WPCP expansion EA approval is required and a construction timeframe established for the delivery of this infrastructure prior to any release of Regional conditions of draft plan approval.

This proposal represents a minor adjustment to Regional policy to provide municipalities with an increased supply of draft approvals to meet local strategic goals such as completing the planning of existing communities. This proposal is also intended to recognize the differences in the municipalities including opportunities for intensification such as Regional Centres and Corridors, emerging communities and the role of pre-paid development agreements to achieve required infrastructure. For example, East Gwillimbury is working towards servicing the communities of Queensville, Holland Landing, and Sharon through Development Charge Pre-Paid agreement and undertaking a growth management study to support and direct the community growth.

While this proposed framework does not provide priority allocation nor does it set growth rates, it needs to recognize the ongoing work and priorities of the local municipalities.

4.1 Provincial Policy Statements (PPS)

The relevant Provincial Policy Statements (PPS) are a consideration in this proposal as the PPS requires:

- Maintaining land with servicing capacity sufficient to provide for least 3 year supply of residential units.
- Lot creation only if there is confirmation of sufficient reserve sewage and water system capacity.
- Growth be based on and reflect provincial plans.

The supply of serviced land will drop below 3 years prior to completion of the Duffin Creek WPCP and Southeast Collector. The population targets in the Growth Plan also can *not* be met without the infrastructure completion of both the Duffin Creek WPCP and Southeast Collector Sewer. The Region can no longer meet the PPS in this situation.

4.2 Key Elements of Proposed Policy

Outlined below are the key elements of this proposed policy to permit potential release of conditions of draft approval of subdivisions requiring capacity from the Duffin Creek WPCP expansion. They include:

- Providing for an additional one year supply of draft approvals as outlined in *Attachment 4*.
- Setting aside a 30% portion of the one year supply for intensification developments in the Regional Centres and Corridors or Local Centres and Corridors as an interim step to 40% by 2015 as set out in the Growth Plan as outlined in *Attachment 4*.

- Ensuring Duffin Creek WPCP EA is approved and construction achievable in 4 years.
- Required infrastructure including the Southeast Collector Sewer is within 6 months of completion prior to registration or Regional confirmation of interim sewer capacity.
- New approvals will be subject to an interim infrastructure “trigger table” that outlines local municipal specific Regional water and wastewater infrastructure requirements in 2011 outlined in *Attachment 3*.
- The policy builds on the previously adopted planning criteria for release of Regional conditions of draft plan of subdivision approval have been met.
- Draft plans of subdivision approval that achieve strategic planning goals will be given priority.
- Prior to draft approvals “No Pre-sales Agreements” and “Indemnity Agreements” are to be entered into.

It will ultimately be up to the local municipalities to determine if further draft approvals are appropriate given their existing draft approval supplies, and the status of their growth management policies and reviews. The Region will release conditions of draft plan approval only at the request of the local municipality.

Building permits will continue to be controlled through the use of the Section 34(5) By-law enacted by the local municipalities which provides the Chief Building Officials the ability to refuse building permits if they are not satisfied that there is adequate servicing availability or there is a high degree of certainty of infrastructure delivery prior to occupancy. The diagram in *Attachment 6* illustrates the key linkage points between development and infrastructure delivery for draft plans of subdivision in keeping with the policy.

This refined policy would be in effect until the Southeast Collector Sewer Individual Environmental Assessment is approved, at which time a further examination of the policy will occur to ensure the strategic goals for growth management for both the Region and local municipalities are being met.

4.3 Phased Release of Draft Plan Conditions and Intensification

While the one year release is based on the Region’s current forecast with the recognition relevant historical growth rate trends, it is acknowledged that new forecasts will be released later in 2007 based on the Planning for Tomorrow Growth Management work and moving towards the achievement of the Places to Grow intensification target of 40%.

These current forecasts are contained in column A of the table in *Attachment 4* which outlines the proportional share of growth in the local municipalities served by the YDSS.

The one year forecasted release is based on managing risk while also providing opportunity for intensification; a reserve of 30% Region wide (served by the YDSS) has been proposed to be set aside only for intensification projects in the Regional Centres and Corridors and the Local Centres and Corridors. The 30% represents the intensification target currently in the Regional Official Plan and it also represents an interim step towards an intensification target of 40% by 2015 as set out in the provincial Growth Plan. The reserve has been adjusted on a local municipality basis with higher reserves for municipalities containing Regional Centers and/or Corridors.

This reserve could be used for plans of subdivision if they achieve strategic intensification in Regional Centres and Corridors or the Local Centres and Corridors; otherwise this reserve can be set aside for future development applications such as site plans, or zoning amendments which achieve higher density intensification.

In order to ensure that the proposed plans of subdivision are meeting both Regional and local strategic priorities, it is proposed that the Region will release these conditions of draft plan approval only at the request of the local municipality as well.

4.4 Draft Plan of Subdivision Conditions and Trigger Table

The current practice of requiring “no pre-sales agreements” is proposed to continue as a precondition to draft approval.

A separate Indemnity Agreement with the Region is a new precondition proposed prior to draft approval. Currently, a condition is contained in the local subdivision agreements which save both the local municipality and Region harmless should the infrastructure be delayed. The Region is, however, not a party to the subdivision agreements. A separate agreement with the Region is proposed as a more effective tool to manage risk that would highlight that proceeding with the plan of subdivision process in advance of Regional infrastructure delivery is done with a full knowledge by the applicant of the risks of potential delays.

Regional water and wastewater conditions of draft approval will continue to be applied which ensure development is in step with infrastructure delivery. In addition to our current standard conditions, the following will also apply:

- Specific infrastructure requirement as outlined on new “trigger table” (*Attachment 3*) in addition to any outstanding infrastructure from the current trigger table updated on January 10, 2007 – with registration when infrastructure is within 6 months of completion.

It should be noted that any outstanding infrastructure identified in the pre 2010 trigger table as updated in the January 10, 2007 report to Transportation and Works Committee entitled “Water and Wastewater Infrastructure Status Report” will remain as requirements.

4.5 Future Sewer and Water Infrastructure Allocation

When both the Duffin Creek WPCP Expansion and the Southeast Collector Sewer have their EAs approved and the construction timetables can be met, additional release of draft plans of subdivision will be considered provided they are in keeping with both Regional and local municipal Official Plans, growth management strategies and Regional policies for release of conditions. A further report identifying the specific levels of development, strategic goals refinements as necessary and a further trigger table identifying infrastructure needs will be tabled at that time.

Additional servicing allocations to local municipalities will be determined once both local and Regional growth management exercises have been completed and we are close to completion of the infrastructure. This is generally one year in advance of infrastructure completion. It is anticipated that we will report on proposed new allocations to local municipalities in approximately 2009.

Future servicing allocation will also be premised on a phased rolling release based on the limits of the infrastructure in keeping with:

- Regional growth forecasts
- Meeting intensification targets
- Phased and managed growth
- Achieving strategic priorities in keeping with the Region’s Growth Management Strategies which will be outlined later this year through the Planning for Tomorrow Growth Management work currently underway
- Local growth management policies
- Infrastructure thresholds established through the Water and Wastewater Masterplans and corresponding trigger tables
- Economic, social and environmental sustainability.

4.6 Relationship to Vision 2026

The proposed policy achieves goals of Visions 2026 in many aspects as it supports the objective of taking a strategic approach to growth management through more deliberate direction for future development which is co-ordinated with efficient infrastructure delivery.

5. FINANCIAL IMPLICATIONS

The Duffin Creek WPCP Expansion and the Southeast Collector are identified as critical projects in our 10 year capital program and development charges are being collected

accordingly. Without the completion of this critical infrastructure as projected for the end of 2010, further growth in keeping with the Region's Official Plan and subsequent collection of development charges will not proceed as currently projected.

The Duffin Creek WPCP is estimated at a cost of \$370,000,000 and the Southeast Collector is estimated at a cost of \$249,000,000 which represents a very significant portion of the Region's capital plan.

6. LOCAL MUNICIPAL IMPACT

The proposed refined policy with specific Regional criteria for further release of conditions of draft approvals supports local municipalities in achieving managed growth in strategic locations and moving towards higher intensification. Local municipalities can identify growth priorities on a local basis to determine which applications move forward to draft approval.

7. CONCLUSION

This report provides the basis for further consultation with the local municipalities and the development industry regarding the release of Regional conditions of draft approval of plans of subdivision in a carefully managed manner. Only when the Environmental Assessment for the Duffin Creek WPCP Expansion is approved by the Province, it is prudent to release a limited amount of new approvals (approximately one year of growth) in order to manage risk.

The key issue continues to be the provision of servicing capacity for post 2010 development dependent on the completion of both the Duffin Creek WPCP expansion and Southeast Collector Trunk Sewer and the Ministry of the Environment meeting the legislated timeframe for approval of the required Environmental Assessments for these projects and maintaining compliance with the PPS under the Planning Act.

For more information on this report contact Karen Whitney, extension 1505, Manager, Planning and Infrastructure Integration of the Community Planning Branch in the Planning and Development Services Department.

The Senior Management Group has reviewed this report.

(The attachments referred to in this clause are included with this report.)