

THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS

PLANNING REPORT

DATE: December 7, 2021

TO: Committee of the Whole

FROM: Melanie Knight, Senior Planner

SUBJECT: Safe Water Drinking Act – Written Consent
PART OF LOT 12, CON. 12
Pakenham Ward, Municipality of Mississippi Mills
Municipally known as 4676 Dark's Side Road

OWNER/APPLICANT: 2755249 Ontario Inc/ ZanderPlan Inc.

RECOMMENDATION:

THAT, Committee of the Whole recommend that Council pass the following resolution:

WHEREAS, as per Section 53 of the Safe Water Drinking Act, 2002 requires written consent by a Municipality for a non municipal drinking water system.

AND WHEREAS, staff are recommending approval of the Site Plan Control application (D11-DIL-12) for the proposed development which includes a non-municipal drinking water system.

BE IT RESOLVED;

THAT, the approval of Site Plan Control file D11-DIL-12 and subsequent building permit issuance for the subject lands at 4676 Dark's Side Road, are not deemed to be Municipal written consent as per Section 53 of the Safe Water Drinking Act, 2002;

AND THAT, if written consent is requested by the owner so that it can be provided to the Ministry of the Environment, Conservation and Parks, the municipality will consider this request separately and the ability to impose conditions and securities as per Section 53 of the Safe Water Drinking Act, prior to providing written consent;

AND THAT, the Clerk provide a copy of the resolution to the Director of the Ministry of the Environment, Conservation and Parks.

BACKGROUND

The subject property is situated in the northeast part of the Village of Pakenham on the eastern side of the Mississippi River with frontage along Dark's Side Road. The property is approximately 3.8 acres (1.5 hectares) in area, with 156 metres (511 feet) of frontage on Dark's Side Road, as shown in Figure 1.

The property contains a vacant building as well as a small number of accessory structures. Previous uses on the property were long-term care and light industrial uses. The vacant building is serviced by a private non-municipal drinking water system and private septic system.

The development proposed at 4676 Dark's Side Road has proceeded through a Zoning By-law Amendment (Z-05-21) process and is now at the Site Plan Control stage for approval of a 22-unit, low-rise apartment building.

DISCUSSION

Site Plan Control

During the Site Plan Control circulation process, staff were advised by the MECP that the drinking water system for the proposed 22-unit low-rise apartment building is under the authority of the Ministry of the Environment, Conservation and Parks (MECP) and the Safe Water Drinking Act. Staff were also advised by the MECP that the proposed development, as it relates to the drinking water system, is considered as a non-municipal drinking water system (major residential development).

The process for approval of the drinking water system, from the MECP, falls outside of Section 41, Site Plan Control, of the Planning Act. As a result, the Site Plan Control process cannot require any approvals for the drinking water system nor impose conditions related to the construction or maintenance of the drinking water system or hold securities via the Site Plan Control Agreement.

Written Consent

As per Section 53 of the Safe Water Drinking Act, written consent from the municipality is required for a non-municipal drinking water system serving a major residential development. For Council's information, Section 53 of the Safe Water Drinking Act is contained in Document 1 of this report.

Staff have been advised that as part of the approval process with the MECP, that the MECP may request the applicant to provide "written consent" from the municipality for a non-municipal drinking water system as per Section 53 of the Safe Water Drinking Act.

In addition, Section 53 permits the municipality to provide written consent, subject to "...such conditions and limits as it considers necessary to prevent a deficiency in connection with the system." The ability for a municipality to require conditions and

securities are in the event that the MECP, at some point in the future, requires the municipality to take over the operation and maintenance of the drinking water system. The Act outlines two situations whereby the MECP may require a municipality to take over the system: 1) the owner of the system abandons the system or 2) as it relates to a deficiency in the system.

For Council's information, the municipality has received an objection from the owner's solicitor with respect to the applicability of Section 53 of the Safe Water Drinking Act. At the time of writing this report, staff have not received any written confirmation from the MECP regarding the applicability of Section 53 and the requirement for written consent; however, MECP staff did advise that this may be a possible as the owner proceeds through the process of gaining approval from the MECP for the non-municipal drinking water system.

CONCLUSION

Council Resolutions

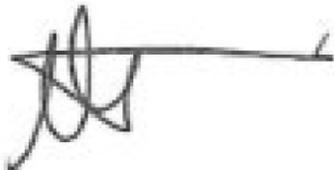
While the objections from the owner's solicitor are noted, staff are recommending, in an abundance of caution, and to be prepared for any request for written consent, that Council pass the above noted resolutions to be forwarded to the Director of the MECP.

Formal submission of a Council resolution will ensure that the Director and MECP staff are aware of the Council's position with respect to the Site Plan Control approval, issuance of building permits and written consent as it relates to relevant sections of the Safe Water Drinking Act.

Staff Direction

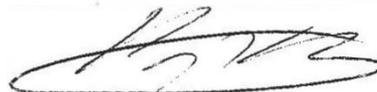
In addition, staff recommend that if/when the owner submits a request for written consent that a staff report along with a draft copy of the written consent and any recommended conditions and securities be presented to Council for consideration prior to any written consent being provided to the owner or to the Director of the MECP.

Respectfully submitted by,



Melanie Knight
Senior Planner

Reviewed by:



Ken Kelly
CAO

ATTACHMENTS:

Document 1 – Section 53 of the Safe Water Drinking Act

Prohibition, development

53 (1) No person shall construct a non-municipal drinking water system that is intended to serve a major residential development within the geographic area of a municipality or extend an existing non-municipal drinking water system within the geographic area of a municipality to serve a major residential development, unless the person obtains the written consent of the municipality to do so. 2002, c.32, s.53(1).

Same

(2) If a non-municipal drinking water system crosses a municipal boundary and requires a consent for its construction or extension under subsection (1), a consent shall be obtained from each municipality in which the system is or will be located. 2002, c.32, s. 53(2).

May impose conditions

(3) A municipality may give a written consent under subsection (1) subject to such conditions and limits as it considers necessary to prevent a deficiency in connection with the system. 2002, c.32, s.53(3).

Financial assurance

(4) If a municipality grants a consent mentioned in subsection (1), the municipality may, as a condition of granting the consent, require the owner of the system to provide cash, a letter of credit from a bank, a bond or another form of financial assurance that the municipality considers appropriate in any amount the municipality believes is necessary to ensure that the municipality has sufficient funds to deal with any failure by the owner or a future owner to comply with an order issued under this Act,

(a) that relates to a deficiency with the system; or

(b) that arises after the system or part of the system is abandoned, within the meaning of Part IX. 2002, c.32, s.53(4).

Copy of consent

(5) If a municipality grants a consent mentioned in subsection (1), the municipality shall provide the Director with a copy of the consent within 30 days of granting the consent. 2002, c.32, s.53(5).

Interpretation

(6) In this section, a reference to a municipality means, in the case of a two-tier municipality, the municipality that has jurisdiction to provide a water public utility under the *Municipal Act, 2001*. 2002, c.32, s.53(6).

Document 2 –