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August 19, 2014

**CORPORATE SERVICES (LEGAL SERVICES)  
INFORMATION REPORT 2014-17**

TO: Mayor Van Bynen and Members of Council  
SUBJECT: Update on Status of Marianneville appeals and OMB written decision/Order  
ORIGIN: Esther Armchuk, Director, Legal Services/Municipal Solicitor

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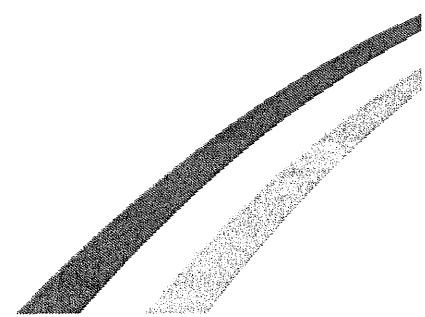
In accordance with the Procedure By-law, any Member of Council may request this Information Report be placed on an upcoming Committee of the Whole agenda for discussion.

**COMMENTS:**

As Members of Council may recall, the 1<sup>st</sup> phase of the Marianneville OMB hearing took place from March 17, 2014 to March 27, 2014. Following that hearing, the OMB gave an oral decision on whether the principal of development had been established on the subject lands. The OMB held that the fundamental test of the principle of development has been met and that there was no legislative prohibition or restriction on developing a residential subdivision on the former golf course lands. Following that decision, Council subsequently directed staff to negotiate a resolution of the technical details of the development. On April 14, 2014, Committee of the Whole adopted recommendations relating to a settlement of the phase 2 hearing. A settlement hearing was held on April 23, 2014, following which the OMB reserved its' written decision and Order.

The Applicant subsequently requested clarification and some housekeeping amendments regarding the proposed zoning standards for mainly the Medium Density and Mixed Use blocks close to or fronting on Davis Drive. The Applicant asked the OMB to withhold its written Order until Town staff could review and comment on the proposed zoning standards. Detailed information was reviewed by staff and the Town's external consultant and it was determined that most of the amendments were minor in nature and did not affect the substance of the plan approved by the OMB.

For the benefit of members of Council, the following brief chronology of events occurred in connection with this matter:



September 19, 2011	Council adopts staff recommendations to hire an external planner to process the future Glenway re-development applications (Community Services/Planning & Building Services Report 2011-36).
April 20, 2012	Marianneville files applications for Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision to develop the former Glenway Golf Course lands for <ul style="list-style-type: none"> <li>• 219 detached homes</li> <li>• 219 townhouses</li> <li>• 292 apartment units</li> <li>• A Commercial Block at Crossland Gate</li> <li>• 2.34 hectares of parkland</li> <li>• Four new public roads</li> </ul>
May 16, 2012	Marianneville applications deemed "complete" by the Town.
December 17, 2012	Council adopts Community Services/Planning and Building Services Report 2012-57 to increase budget by \$38,000 to accommodate additional technical work and meetings of experts to scope the development issues.
December 17, 2012	Council adopts staff recommendations to refer the Marianneville applications to a public meeting ( <i>Community Services/Planning &amp; Building Services Report 2012-51</i> ) Council also receives solicitor/client advice in connection with options relating to decision-making.
January 7, 2013	Statutory Public Meeting held at the Newmarket Theatre. Over 600 people were in attendance.
April 15, 2013	Marianneville files Notices of Appeal on all 3 development applications.
June 2013	OMB issues Notice of Pre-hearing date of August 7, 2013
August 7, 2013	OMB Pre-hearing to determine parties and participants to the hearing, and also to schedule a second pre-hearing date of December 10, 2013.
August 20, 2013	OMB issues a written decision listing the parties and participants to the hearing and scheduling a 2 <sup>nd</sup> pre-hearing conference.
August 23, 2013	Marianneville submits a Without Prejudice Offer to Settle all OMB appeals.
October 15, 2013	Closed Session Meeting of Committee of the Whole to receive an update and status report and solicitor/client advice on the processing and issues around the Marianneville development applications including an overview of staff and consultant reports to date. Committee of the Whole also received a deputation from Nick McDonald on behalf of the Glenway Preservation Association regarding the position of the GPA on the appeals.
October 15, 2013	Committee of the Whole meeting at Crossland Church to receive Ruth Victor's comprehensive planning report and hear resident deputations.

November 18, 2013	Closed Session Committee of the Whole to receive solicitor/client advice and to discuss the litigation and 2 <sup>nd</sup> OMB pre-hearing.
November 20, 2013	Marianneville files a revised Without Prejudice Settlement Offer.
November 25, 2013	Committee of the Whole meeting held at Newmarket Theatre to consider Ruth Victor's comprehensive planning report ( <i>Development and Infrastructure Services/Planning &amp; Building Services Report 2013-47</i> ) and recommendations relating to Marianneville's August 23, 2013 Without Prejudice Settlement Offer.
December 2, 2013	Council adopts recommendations to reject Marianneville's Without Prejudice Offer to Settle and directs staff to advise the OMB that the Town is seeking consideration for a two staged hearing process that would first allow for discussion on the principle of development, and that staff engage outside legal/planning with OMB experience in defending the principle of development.
December 10, 2013	2 <sup>nd</sup> OMB Pre-hearing; the Town argued a motion requesting a 2 staged hearing. Marianneville ultimately settled the motion and agreed to a two stage hearing.
December 19, 2013	OMB issues a written decision confirming that the hearing will be dealt with in two phases and sets out the Phase one Issues List.
March 17, 2014	Commencement of the Phase one hearing regarding the principle of development.
March 27, 2014	Conclusion of the Phase one hearing regarding the principle of development; OMB gives oral decision that the fundamental test of the principle of development has been met and the hearing will proceed to Phase two.
March 31, 2014	Closed Session Committee of the Whole and direction to staff to negotiate resolution of the Phase two hearing, exploring all options.
April 8, 2014	Closed Session Committee of the Whole, where Council directed staff to settle the phase two hearing by supporting the preferred option for proposed plan of subdivision. GPA provided with the preferred option of plan of subdivision for review and input.
April 22, 2014	Committee of the Whole – update on the resolution of technical and compatibility matters and deputation by the GPA.
April 23, 2014	Phase two Settlement hearing and issuance of oral OMB decision allowing "in part" the appeals by Marianneville regarding Official Plan Amendment, Zoning By-law Amendment and proposed plan of subdivision. Written decision withheld until the Board has been advised that all pre-conditions have been satisfied.

## **BUSINESS PLAN AND STRATEGIC PLAN LINKAGES**

This report supports the *well-equipped* and *managed* objectives of the strategic plan by implementing policy and processes that reflect sound and accountable governance.

## **CONSULTATION**

The Planning Department and Strategic Leadership Team were consulted in preparing this report.

## **HUMAN RESOURCE CONSIDERATIONS**

Staffing levels are not impacted as a result of the recommendations in this report.

## **BUDGET IMPACT**

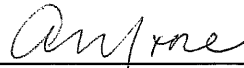
There is no budget impact as a result of the information contained in this report.

## **CONTACT**

For more information on this report, contact Esther Armchuk, Director, Legal Services/ Municipal Solicitor at [earmchuk@newmarket.ca](mailto:earmchuk@newmarket.ca) or 905.953.5300, Ext. 2432.



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