

**THE CORPORATION OF THE TOWNSHIP OF ESSA
VIRTUAL COMMITTEE OF THE WHOLE MEETING
WEDNESDAY, FEBRUARY 2, 2022
6:00 p.m.**

To view our live stream, please visit the Township of [Essa's YouTube Channel](#)

AGENDA

- 1. OPENING OF MEETING BY THE MAYOR**
- 2. DISCLOSURE OF PECUNIARY INTEREST**
- 3. DELEGATIONS / PRESENTATIONS / PUBLIC MEETINGS**

STAFF REPORTS

4. PLANNING AND DEVELOPMENT

- p. 1 a. **Staff Report PD003-22 submitted by the Manager of Planning and Development, re: 28 Brentwood Road – Zoning By-law Amendment Submission Update.**

Recommendation: *Be it resolved that Staff Report PD003-22 be received.*

- p. 5 b. **Staff Report PD004-22 submitted by the Manager of Planning and Development, re: 62 Centre Street – Zoning By-law Amendment and Consent Applications Submission.**

Recommendation: *Be it resolved that Staff Report PD004-22 be received: and That Council direct Staff to proceed with processing the subject application and scheduling a Public Meeting.*

- p. 10 c. **Staff Report PD005-22 submitted by the Manager of Planning and Development, re: Blocks 142 and 143 – Official Plan and Zoning By-law Amendment.**

Recommendation: *Be it resolved that Staff Report PD005-22 be received: and That Council direct staff to proceed with processing the subject application and scheduling a Public Meeting.*

- p. 14 d. **Staff Report PD006-22 submitted by the Manager of Planning and Development, re: 170 Mill Street – Official Plan and Zoning By-law Amendment.**

Recommendation: *Be it resolved that Staff Report PD006-22 be received: and That Council direct staff to proceed with processing the subject application.*

- p. 18 e. **Staff Report PD007-22 submitted by the Manager of Planning and Development, re: 3 Massey Street – Official Plan and Zoning By-law Amendment.**

Recommendation: *Be it resolved that Staff Report PD007-22 be received: and That Council direct staff to proceed with processing the subject application and scheduling a Public Meeting.*

5. **PARKS AND RECREATION / COMMUNITY SERVICES**

- p. 22 a. **Staff Report PR001-22 submitted by the Manager of Parks and Recreation, re: Township Planter Watering – 1-Year Pilot Project.**

Recommendation: *Be it resolved that Staff Report PR001-22 be received: and That Council direct the Manager of Parks and Recreation to proceed with a 1-year Pilot Project for Township Staff, to fulfill the duties of watering the planters located within the Township of Essa in partnership with the Angus BIA and to water gardens previously maintained by the Horticultural Society and other volunteers.*

6. **FIRE AND EMERGENCY SERVICES**

7. **PUBLIC WORKS**

- p. 24 a. **Staff Report PW002-22 submitted by the Manager of Public Works and the Manager of Parks and Recreation, re: Township of Essa Fleet Capital Purchase – Public Works and Parks and Recreation – Three 2022 Chevrolet Silverado 1500 4WD.**

Recommendation: *Be it resolved that Staff Report PW002-22 be received: and That the quotation as received from Georgian Chevrolet Buick GMC for the Public Works and Parks & Recreation Departments fleet capital purchase be accepted in the amounts of \$83,322 and \$41,661 (excluding HST & licensing), for the purchase of three 2022 Chevrolet Silverado pickup trucks in accordance with quoted specifications.*

8. FINANCE

a. Reduction of Securities – Nottawasaga Village (Stonemount) Subdivision – Block 124/125.

Recommendation: WHEREAS at its meeting of January 19, 2022 Council passed Motion CW005-2022 to reduce securities in relation to Nottawasaga Village (Stonemount) Subdivision Block 124/125; and WHEREAS the Township Engineer advised the municipality to further reduce securities in relation to Nottawasaga Village (Stonemount) Subdivision Block 124/125; NOW THEREFORE BE IT RESOLVED That Council approve a further reduction in securities as follows:

Current Securities Held by Township of Essa:	\$84,848.98
LESS Recommended Reduction:	\$67,630.43
Securities to be Retained by Township of Essa:	\$17,218.55

And,
 That the return of securities is conditional upon the Developer providing the municipality with a finalization of works with documentation provided to the Township for final approval.

9. CLERKS / BY-LAW ENFORCEMENT / IT

10. CHIEF ADMINISTRATIVE OFFICER (C.A.O.)

p. 27 **a. Council Reconsideration of Staff Report CA0004-22 submitted by the Chief Administrative Officer, re: Joint and Several Liability – Municipal Insurance.**

Recommendation: Be it resolved that Staff Report CA0004-2221 be received; and That Council support the 2022 proposed resolution of AMO on the issue of joint and several liability and the impact on the municipal insurance; and That the proposed motion be presented to Council for adoption in its regular meeting of this date.

11. OTHER BUSINESS

12. ADJOURNMENT

Recommendation: Be it resolved that this meeting of Committee of the Whole of the Township of Essa adjourn at _____ p.m., to meet again on the 16th day of February, 2022 at 6:00 p.m.



TOWNSHIP OF ESSA STAFF REPORT

STAFF REPORT NO.: PD003-22
DATE: February 2nd, 2022
TO: Committee of the Whole
FROM: Aimee Powell, BURPI., MPA, MCIP, RPP
Manager of Planning & Development
SUBJECT: 28 Brentwood Road - Zoning By-law Amendment
Submission Update

RECOMMENDATION

That Staff Report PD003-22 be received.

BACKGROUND

On behalf of Bella Joya Family Trust, Innovative Planning Solutions has applied for a Zoning By-law Amendment for the property legally known as Part of Lot 20, Concession 1, Lots 14 and 15 of Registered Plan 1425 in the former Township of Sunnidale, municipally known as 28 Brentwood Road, in the Township of Essa. The Township has received a new *Planning Act* Application for a Zoning By-law Amendment for 28 Brentwood Road in Angus (see Attachment A to this report for the Context Map).

COMMENTS AND CONSIDERATIONS

The subject lands are in the Settlement Area of Angus in both the Township of Essa's and the County of Simcoe's Official Plans (OP). Land Use Schedule "B" in the Township of Essa's Official Plan, 2001 designates the lands as 'Residential'.

Schedule 'B' of the Township of Essa's Zoning By-law 2003-50 zones the lands as 'Residential Low-Density Detached (R1)'. The subject property is regulated by the Nottawasaga Valley Conservation Authority (NVCA); therefore, the Applicant will have to satisfy any necessary requirements of the NVCA alongside the required planning approvals, including, but not limited to the County of Simcoe, on the matters of traffic and stormwater management.

The applicant is proposing the development of four (4) new semi-detached residential units, and to rezone the lands from 'Residential, Low-Density, Detached (R1)' to 'Residential, Medium Density, Townhome Exception (R3-X)'. Three Consent Applications will also be required for the creation of the proposed development.

4a

In October 2019 a Pre-Consultation application was submitted to the Township on the subject site. That was followed by the submission of a Zoning By-law Amendment application in April 2021. The proposal will require the following provisions:

- a) Minimum Corner Lot Area with Full Municipal Services: 250m²
- b) Minimum Corner Lot Frontage with Full Municipal Services: 9.7m
- c) Minimum Front Yard Setback: 6.6m
- d) Minimum Exterior Side Yard Setback: 1.7m
- e) Maximum Corner Lot Coverage: 36%
- f) Minimum Parking: 1 exterior and 1 interior space/unit

The following supporting documents and studies have been received and circulated to staff and agencies through a second submission, that was provided to the Township in October 2021:

- Comments Response Matrix
- Revised Severance Sketch (R3 Zone)
- Revised Draft Zoning By-law Amendment Text (R3 Zone)
- Revised Draft Zoning By-law Amendment Schedule (R3 Zone)
- Justification for the R3 Zone
- Test Pit Investigation, prepared by GEI Consultants;
- Latest Engineering Plans, prepared by Pinestone Engineering; and
- Safe Access/Egress Technical Memorandum, prepared by WSP.

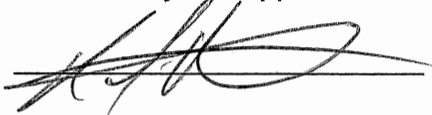
A public hearing is scheduled to be held on Wednesday February 16, 2022, to discuss the proposed amendment.

FINANCIAL IMPACT

In April 2021, Township Staff collected \$5,000.00 in application fees, as well as a \$2,000.00 legal and engineering deposit to cover Township legal and engineering fees.

All costs of this development are to be borne by the applicant/developer.

Reviewed by Finance Department:



SUMMARY/OPTIONS

Council may:

1. Deny the application for reasons to be outlined by Council.
2. Receive the Report for information.
3. Direct Staff in another manner Council deems appropriate.

CONCLUSION

Option #2 is recommended.

Prepared by:

SY

Silva Yousif MPlan, EIT, PMP
Sr Planner

Respectfully submitted by:

Aimee Powell

Aimee Powell BURPI, MPA, MCIP, RPP
Manager of Planning &
Development

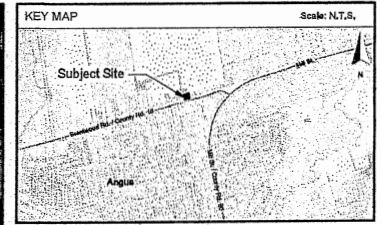
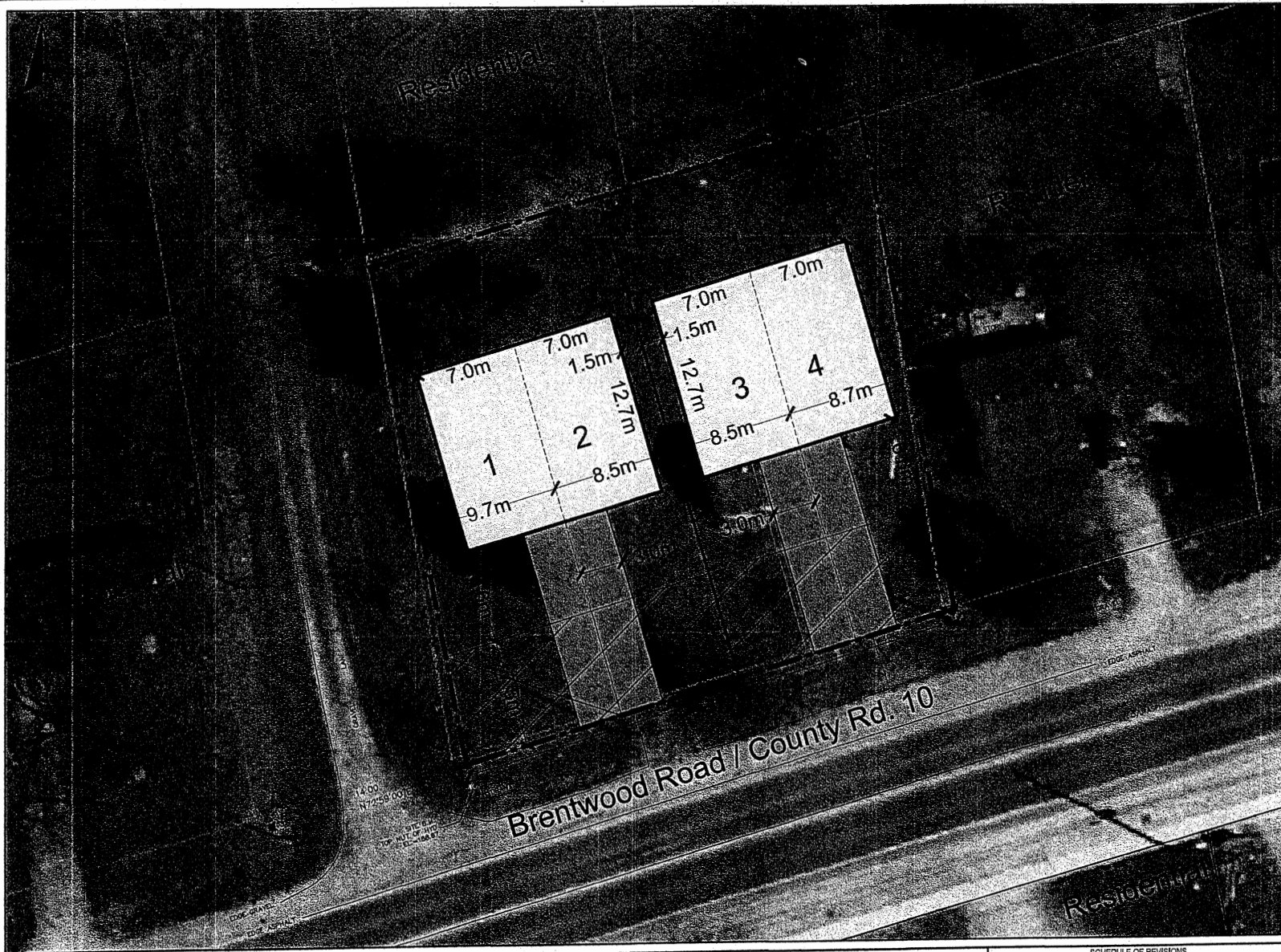
Reviewed by:

CH Dowdall

Colleen Healey-Dowdall
CAO

Attachment "A" Context Map - 28 Brentwood Road

Attachment A - Context Map 28 Brentwood Road



CONCEPTUAL SITE PLAN

Scale 1:800

LEGEND

- Subject Site (Area: 1,233.7m² - incl. road widening)
- Semi-Detached Dwellings
- Landscaped Area
- Driveway
- 7.5m Road Widening (Area: 265.7m²)

ZONING TABLE - R3 ZONE (Excluding Road Widening Area)		
PROVISION	REQUIRED	PROVIDED
Min. Lot Area (m ²) (with full municipal services)	300.0m ² (corner) 175.0m ² (internal)	252.4m ² (lot 1) 232.4m ² (lots 2 - 4)
Min. Lot Frontage (m) (with full municipal services)	10.0m (corner) 6.0m (internal)	9.7m (lot 1) 6.5m (lots 2 - 4)
Min. Front Yard Setback (m)	7.5m	6.6
Min. Interior Side Yard Setback (m)	1.5m	1.5m
Exterior Side Yard Setback (m)	4.5m	1.7m
Min. Rear Yard Setback (m)	8.0m	8.0m
Min. GFA (m ²)	84.0m ² / unit	159.8m ² / unit (2 storeys)
Max. Bldg Hight (m)	10.5m	<10.5m
Max. Lot Coverage (m ²)	35.0% (corner) 45% (internal)	35.2% (lot 1) 36.2% (lots 2 - 4)
Parking	2 Exterior Parking Spaces	1 Interior, 1 Exterior

Source: Township of Essex, Zoning By-Law No. 2003-60
C.A. MacDonald Surveying Inc., September 21, 2020
Note: Information shown in approximate and subject to change.

CONCEPT PLAN: 4 UNITS

28 BRENTWOOD ROAD, ANGUS

SCHEDULE OF REVISIONS			
No.	Date	Description	By
1	Sept. 23, 2020	Underlay survey	A.S.
2	April 21, 2021	Update zoning matrix	A.S.
3	August 26, 2021	Update zoning matrix	A.S.
4	September 1, 2021	Update zoning matrix	J.V.

IPS INNOVATIVE PLANNING SOLUTIONS
PLANNERS • PROJECT MANAGERS • LAND DEVELOPERS
SERVICES INC. (LEGAL NAME: OYDAS, L4107)
4470-412-5281 Fax: 416-412-5218 info@innovativeips.com www.innovativeips.com

Date: August 5, 2020	Drawn By: A.S.
File: 19-677	Checked: D.V./T.K.



TOWNSHIP OF ESSA STAFF REPORT

STAFF REPORT NO.: PD004-22

DATE: February 2nd, 2022

TO: Committee of the Whole

FROM: Aimee Powell, BURPI., MPA, MCIP, RPP
Manager of Planning & Development

SUBJECT: 62 Centre Street Essa - Zoning By-law Amendment & Consent Applications Submission

RECOMMENDATION

That Staff Report PD004-22 be received and that Council direct Staff to proceed with processing the subject application and the scheduling of a Public Meeting.

BACKGROUND

On behalf of Geoffrey Joel Smith, Loft Planning has applied for a Zoning By-law Amendment and Consent on the subject property legally known as Plan 160A PT LOT 248, municipally known as 62 Centre Street, in the Township of Essa. (see Attachment A to this report for the Context Map).

COMMENTS AND CONSIDERATIONS

The subject lands are in the Settlement Area of Angus in both the Township of Essa's and the County of Simcoe's Official Plans (OP). Land Use Schedule "B" in the Township of Essa's Official Plan, 2001 designates the lands as 'Residential'.

Schedule "B" of the Township of Essa's Zoning By-law, 2003-50, zones the lands as 'Residential Low-Density Detached (R1)'. The subject property is not regulated by the Nottawasaga Valley Conservation Authority (NVCA). The Applicant will have to satisfy any necessary requirements of the required planning approvals, including but not limited to the County of Simcoe, on the matters such as traffic or stormwater management.

The proposed Zoning By-law Amendment would re-zone the lands from the 'Residential Low-Density Detached (R1)' zone to the 'Residential Low-Density, Semi-Detached (R2)' zone to allow a semi-detached residential building to be constructed on the property.

The applications will enable the Applicant to sever the parcel into two (2) lots which will allow semi-detached residential units as a permitted use. The consent is proposed to sever a lot resulting in a lot area of 373.34 m² with a lot frontage of 13.5 m, while the retained parcel would be 377.73 m² in size with a lot frontage of 13.8 m.

The proposal will require the following provisions:

- a) Minimum Lot Area – 370 m²
- b) Minimum Lot Frontage – 8.5 m

A Pre-Consultation application was submitted to the Township in April 2021. The following supporting documents and studies have been received as part of a complete application that was submitted to the Township in December 2021 and have been circulated to staff and agencies through a formal first submission:

- Owner's Authorization Letter
- Zoning By-law Amendment Application Form
- Consent Application
- Formal Concept Plan
- Planning Justification Report (PJR) Including:
- Functional Servicing Report
- Lot Grading

The Consent application was scheduled to be heard at the January 28th, 2022 Committee of Adjustment Meeting where a Condition of Consent was the approval of the Zoning By-law Amendment. A public hearing is to be scheduled at a future meeting of Council following the review of this initial submission.

FINANCIAL IMPACT

In December 2021, Township Staff collected \$5,000 in Zoning By-law Amendment application fees, a \$2,000 legal and engineering deposit to cover Township legal and engineering fees and \$2,500 was collected for the severance application.

All costs of this development are to be borne by the applicant/developer.

Reviewed by Finance Department: _____

SUMMARY/OPTIONS

Council may:

1. Take no further action, in effect denying the application for reasons to be outlined by Council.
2. Receive the Report for information and that Council direct Staff to proceed with processing the subject application and the scheduling of a Public Meeting.
3. Direct Staff in another manner Council deems appropriate.

Opt 2 Revised

4b

CONCLUSION

Option #2 is recommended.

Prepared by:

SY

Silva Yousif MPlan, EIT, PMP
Sr Planner

Respectfully submitted by:

Aimee Powell

Aimee Powell BURPI, MPA, MCIP, RPP
Manager of Planning &
Development

Reviewed by:

Chaley

Colleen Healey-Dowdall
CAO

Attachment "A" Context Map - 62 Centre Street Essa

Attachment A - Context Map 62 Centre St

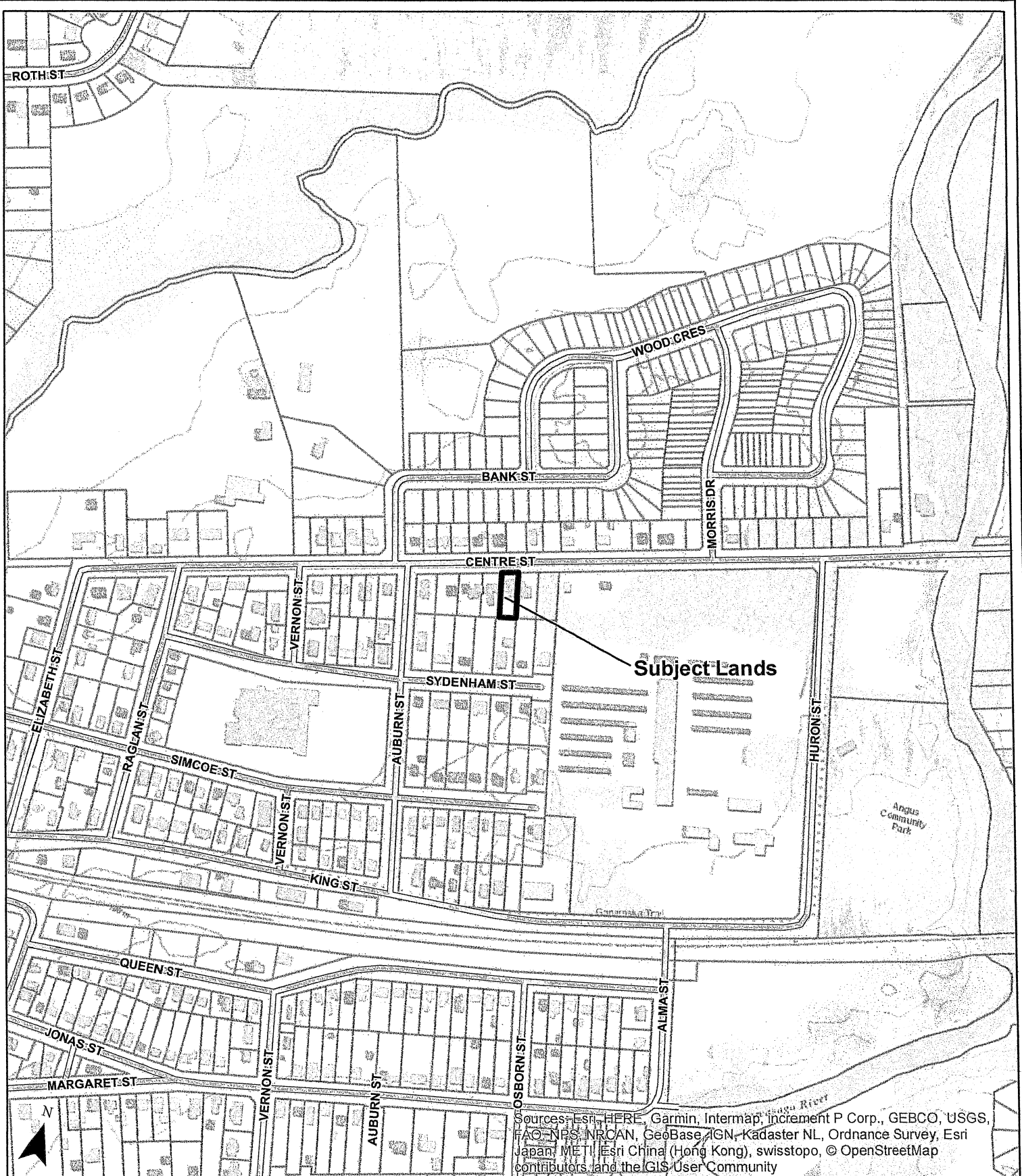


Figure 1
Location
62 Centre Street
Township of Essa



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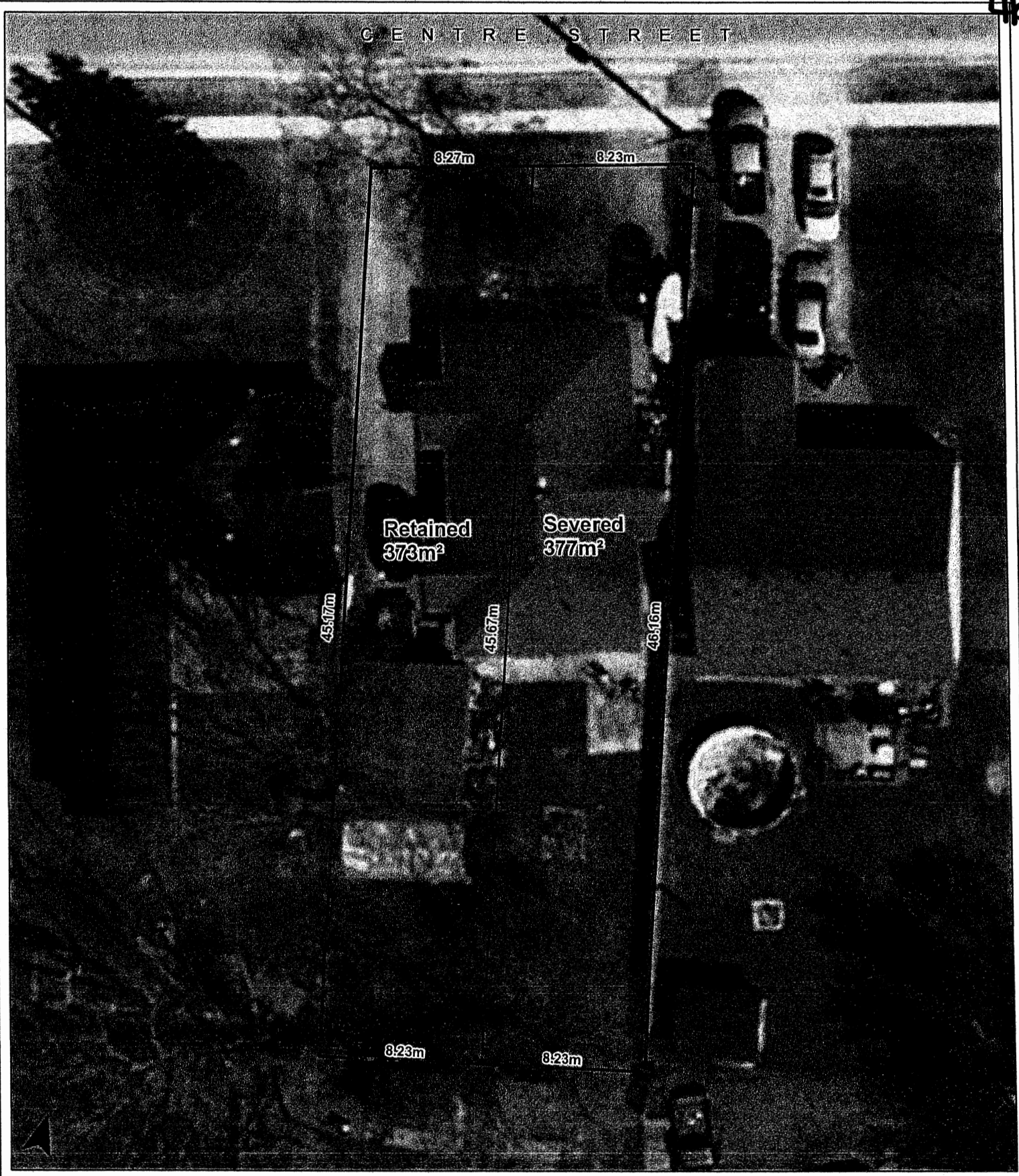


Figure 2
Aerial
62 Centre Street
Township of Essa

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TOWNSHIP OF ESSA STAFF REPORT

STAFF REPORT NO.: PD005-22

DATE: February 2nd, 2022

TO: Committee of the Whole

FROM: Aimee Powell, BURPI., MPA, MCIP, RPP
Manager of Planning & Development

SUBJECT: Blocks 142 & 143 - Official Plan and Zoning By-law
Amendment

RECOMMENDATION

That Staff Report PD005 -22 be received and that Council direct Staff to proceed with processing the subject application and the scheduling of a Public Meeting.

BACKGROUND

On behalf of Stonemount Developments Inc., The Jones Consulting Group Ltd. has applied for an Official Plan Amendment and Zoning By-law Amendment for the subject property legally described as Part of Lot 30, Concession 4, Registered Plan 51M-732, Blocks 142 and 143; (see Attachment A to this report for the Context Map).

COMMENTS AND CONSIDERATIONS

The subject lands are in the 'Settlement Area' of Angus in both the Township of Essa's and the County of Simcoe's Official Plans (OP). Land Use Schedule "B" in the Township of Essa's Official Plan, 2001 designates the subject lands as 'Residential-Future'.

Schedule 'B' of the Township of Essa Zoning By-law 2003-50 identifies the subject lands as 'Residential Medium Density, Townhome (R3)'. The subject property is regulated by the Nottawasaga Valley Conservation Authority (NVCA). The Applicant will have to satisfy any necessary requirements of the required planning approvals, including but not limited to the NVCA and the County of Simcoe, on matters, including but not limited to, traffic and stormwater management.

The proposed Official Plan Amendment is to designate the lands to 'Residential Multiple High Density' and 'Environmental Protection' to permit the residential apartment building and the 'Environmental Protection' designation that will recognize the natural heritage features and constraints on the lands.

The proposed Zoning By-law Amendment (ZBLA) will re-zone the subject lands from the 'Residential, Townhouse (R3)' zone to the 'Residential, High Density, Apartments Exception (R5-XX)' Zone and Environmental Protection (EP) Zone is to allow for the development of a 6-storey residential building on the subject property. The Zoning By-law Amendment will permit the proposed residential building on the site and introduce site-specific development standards, as well as recognize the natural heritage features on the lands.

The proposal will trigger further provisions related to:

- a) Development Standards,
- b) General Provisions,
- c) General Provisions for Residential uses; to be addressed under the ZBL amendment.

A Pre-Consultation application was submitted in July 2019. In December 2021, the following supporting documents and studies have been provided with the subject application's submission, that have since been circulated for comment:

- The Township is in receipt of the following materials to support the Application
- Official Plan Amendment Application
- Zoning By-law Amendment Application
- OPA Text and Schedule
- ZBLA Text and Schedule
- Legal deed
- Boundary Survey
- Signed Authorization Letter
- Site Plan
- Planning Justification Report
- Functional Servicing Report (Including Stormwater Management)
- Traffic Impact Study
- Environmental Impact Study
- Floodplain Hazard Study
- Slope Stability Assessment (Addendum to Geotechnical Investigation) and supporting Letter of Opinion
- Hydrogeological Study
- Pre- and Post-Development Water Balance Assessment
- Tree Preservation and Edge Management Plan
- Stage 1 & 2 Archaeological Assessment
- Residential and Affordable Housing Memorandum
- Noise Feasibility Study
- Comment Response Matrix

FINANCIAL IMPACT

Township Staff collected \$5,000 in ZBLA application fees, as well as a \$2,000 legal and engineering deposit to cover Township legal and engineering fees. In support of the OPA application, \$5,000 was also collected.

All costs of this development are to be borne by the applicant/developer.

Reviewed by Finance Department: _____

SUMMARY/OPTIONS

Council may:

1. Take no further action, in effect denying the application for reasons to be outlined by Council.
2. Receive the Report for information and that Council direct Staff to proceed with processing the subject application and the scheduling of a Public Meeting.
3. Direct Staff in another manner Council deems appropriate.

CONCLUSION

Option #2 is recommended.

Prepared by:

Respectfully submitted by:

Reviewed by:

Sy

Aimee Powell

Colleen Healey-Dowdall

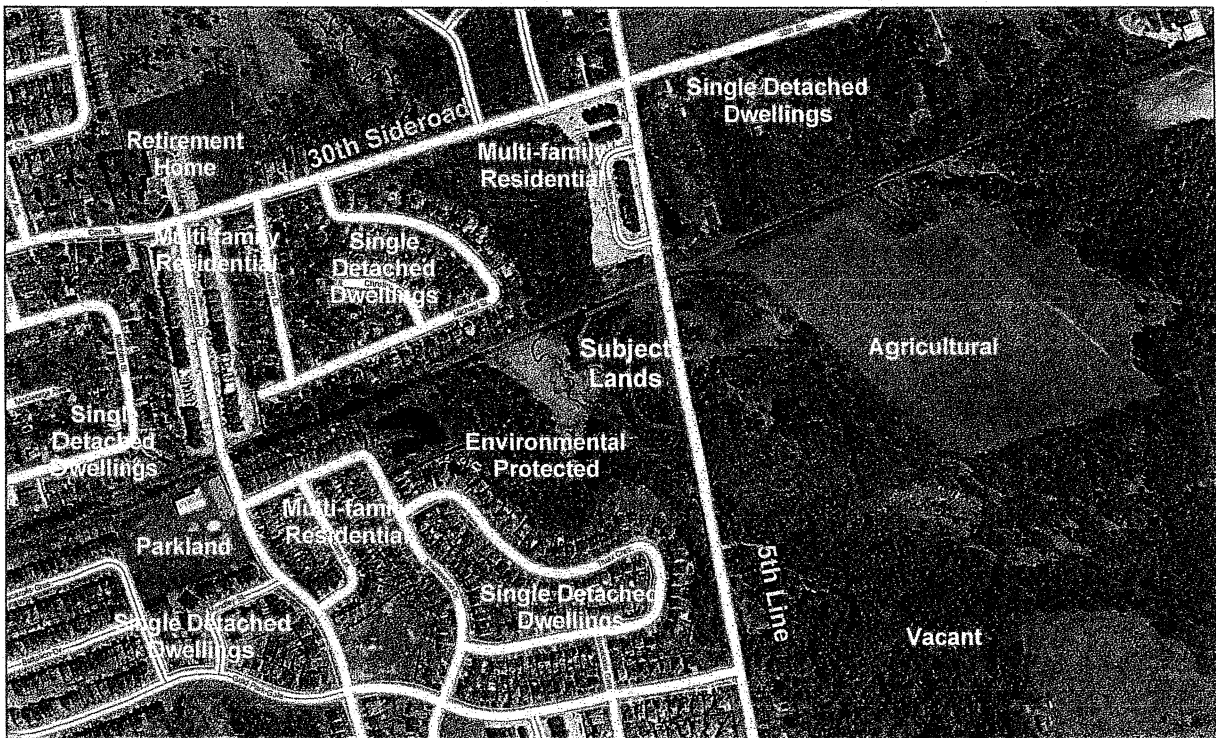
Silva Yousif MPlan, EIT, PMP
Sr Planner

Aimee Powell BURPI, MPA, MCIP, RPP
Manager of Planning &
Development

Colleen Healey-Dowdall
CAO

Attachment "A" Context Map - Blocks 142 and 143

Attachment A - Context Map
Blocks 142 and 143





TOWNSHIP OF ESSA STAFF REPORT

STAFF REPORT NO.: PD006-22

DATE: February 2nd, 2022

TO: Committee of the Whole

FROM: Aimee Powell, BURPI., MPA, MCIP, RPP
Manager of Planning & Development

SUBJECT: 170 Mill Street - Official Plan and Zoning By-law
Amendment

RECOMMENDATION

That Staff Report PD006 -22 be received and that Council direct Staff to proceed with processing the subject application.

BACKGROUND

On behalf of 2704402 Ontario Inc., IBI GROUP has applied for an Official Plan Amendment and Zoning By-law Amendment the subject property legally described as Lot 18 and Part of Lot 22 in Registered Plan 1330 and Parts 2 & 3 in Reference Plan 51R40898, municipally known as 170 Mill Street. (see Attachment A to this report for the Context Map).

COMMENTS AND CONSIDERATIONS

The subject lands are in the 'Settlement Area' of Angus in both the Township of Essa's and the County of Simcoe's Official Plans (OP). Land Use Schedule "B" in the Township of Essa's Official Plan, 2001 designates the subject lands as 'Commercial' and 'Residential'.

Schedule "B" of the Township of Essa Zoning By-law 2003-50, identifies the subject lands as 'Core Commercial' (C2), and 'Residential - Low Density, Detached' (R1). The subject property is not regulated by the Nottawasaga Valley Conservation Authority (NVCA). The Applicant will have to satisfy any requirements of the required planning approvals, including but not limited to, the County of Simcoe on the matters including but not limited to, traffic and stormwater management.

The proposed Official Plan Amendment is to re-designate the northern portion of the subject lands from the 'Residential' to the 'Commercial' designation, consistent with the

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'Commercial' designation already in place on the southern portion of the lands, in order to permit a four-storey commercial hotel (Quality Inn), the commercial hotel will have sixty (60) rooms and sixty (60) parking spaces.

The proposed Zoning By-law Amendment (ZBLA) is requesting to rezone the northern portion of the subject lands to 'Core Commercial' (C2) Zone, to permit the development of the proposed hotel.

The proposal will require further site-specific provisions related to:

- a) Development Standards,
- b) General Provisions,
- c) General Provisions for Residential uses; To be addressed under the ZBL amendment.

A Pre-Consultation application was submitted in May 2020. The following supporting documents and studies were received by the Township in December 2021, deemed a complete application and circulated to staff and agencies through a formal first submission:

- Site Plan
- Design Brief & Transportation Plan
- Overall Floor Plans
- Roof Plans & Details
- Exterior Elevation1
- Exterior Elevation2
- Exterior Perspectives
- Building Sections
- Tree Protection Plan
- Tree Protection Details
- Landscape Plan
- Erosion & Sediment Control Plan
- Grading Plan
- Site Servicing Plan
- Functional Servicing Report
- Stormwater Management Report
- Economic Analysis Report
- Noise Report
- Geotechnical Report
- Active Transportation Brief
- Transportation Brief
- Planning Justification Report
- Draft Official Plan Amendment & Schedule
- Draft Zoning By-Law Amendment & Schedule
- Zoning By-Law Amendment Application Form
- Official Plan Amendment Application Form
- Electronic Funds Transfer

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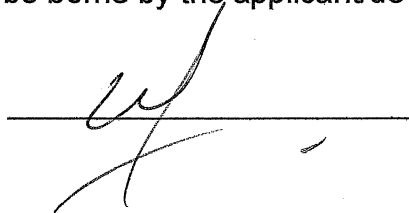
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FINANCIAL IMPACT

The Township Staff collected \$5,000.00 in ZBLA application fees, as well as a \$2,000.00 legal and engineering deposit to cover Township legal and engineering fees. In support of the OPA application, \$5,000.00 was also collected.

All costs of this development are to be borne by the applicant/developer.

Reviewed by Finance Department:



SUMMARY/OPTIONS

Council may:

1. Take no further action, in effect denying the application for reasons to be outlined by Council.
2. Receive the Report for information and that Council direct Staff to proceed with processing the subject application.
3. Direct Staff in another manner Council deems appropriate.

CONCLUSION

Option #2 is recommended.

Prepared by:



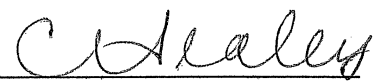
Silva Yousif MPlan, EIT, PMP
Sr Planner

Respectfully submitted by:



Aimee Powell BURPI, MPA, MCIP, RPP
Manager of Planning &
Development

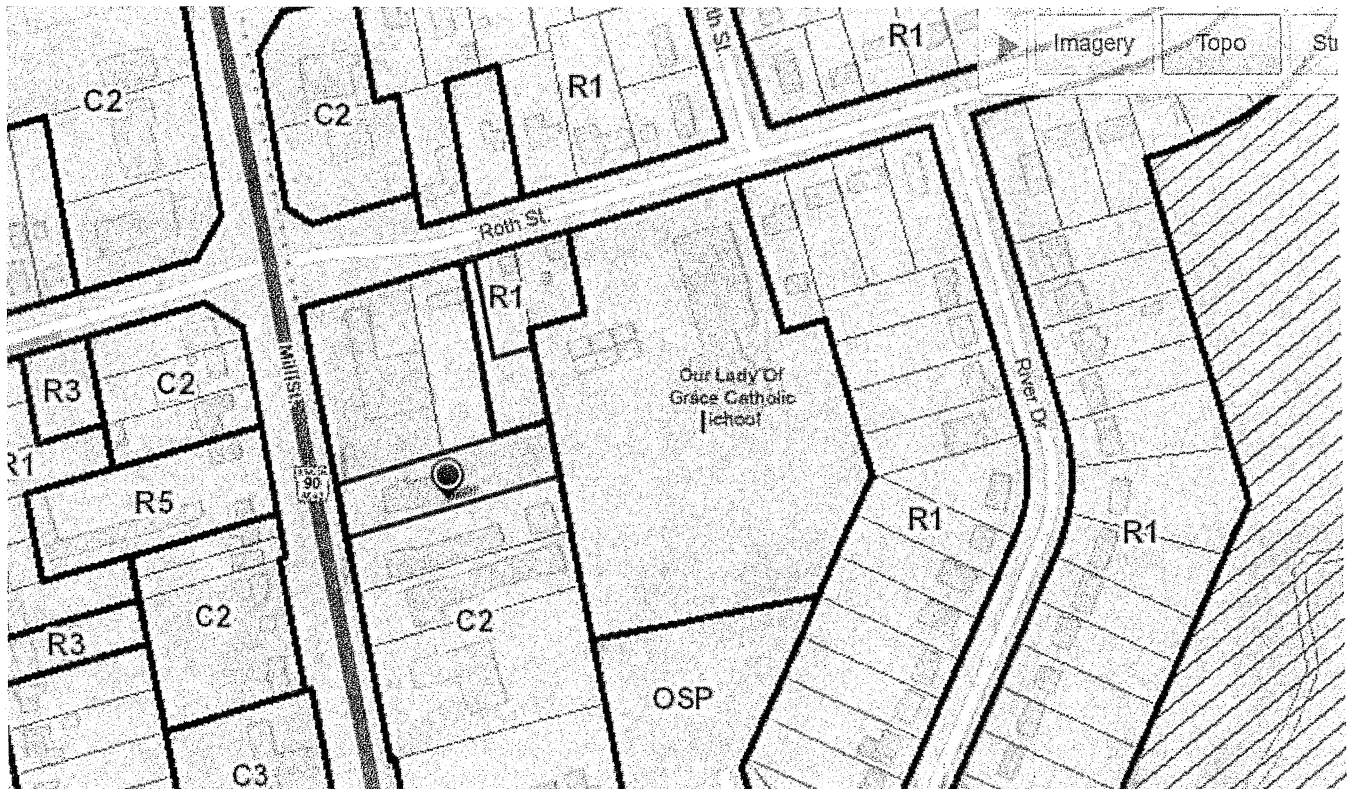
Reviewed by:



Colleen Healey-Dowdall
CAO

Attachment "A" Context Map - 170 Mill Street

Attachment A - Context Map 170 Mill Street





TOWNSHIP OF ESSA STAFF REPORT

STAFF REPORT NO.: PD007-22

DATE: February 2nd, 2022

TO: Committee of the Whole

FROM: Aimee Powell, BURPI., MPA, MCIP, RPP
Manager of Planning & Development

SUBJECT: 3 Massey Street - Official Plan and Zoning By-law
Amendment

RECOMMENDATION

That Staff Report PD007-22 be received and that Council direct Staff to proceed with processing the subject application and the scheduling of a Public Meeting.

BACKGROUND

On behalf of Virtus Asset Management Inc., The Jones Consulting Group Ltd. has applied for an Official Plan Amendment and Zoning By-Law Amendment the subject property legally described as Part of Lot 10, South side of Margaret Street, Registered Plan 160A, Lot 2, Registered Plan 1351 and Part of the West Half of Lot 29, Concession 3, Township of Essa, County of Simcoe known commonly as the Rainbow Mall, located at 3 Massey Street, Angus (see Attachment A to this report for the Context Map).

COMMENTS AND CONSIDERATIONS

The subject lands are in the 'Settlement Area' of Angus in both the Township of Essa's and the County of Simcoe's Official Plans (OP). Land Use Schedule "B" in the Township of Essa's Official Plan, 2001 identifies the subject lands to be designated as 'Commercial'.

Schedule 'B' of the Township of Essa Zoning By-law 2003-50, identifies the subject lands as 'Core Commercial' (C2). The subject property is regulated by the Nottawasaga Valley Conservation Authority (NVCA). The Applicant will have to satisfy any requirements of the required planning approvals, including but not limited to, the County of Simcoe on the matters, including but not limited to, traffic and stormwater management.

The proposed Official Plan Amendment will designate the subject lands from 'Commercial' to 'Commercial Exception (CX)'. The 'Commercial Exception' designation will continue to recognize the existing commercial uses and allow for the development of 67 residential units. The proposed Zoning By-law Amendment (ZBLA) will re-zone the

4e

subject lands from the 'Core Commercial (C2)' to 'Core Commercial Exception (C2-XX)' to permit the development of a 67 residential unit 7-storey building.

The proposal will require further site-specific provisions related to:

- a) Development Standards,
- b) General Provisions,
- c) General Provisions for Residential uses; to be addressed under the ZBL amendment.

A Pre-Consultation application was submitted in October 2020. The following supporting documents and studies were received by the Township in December 2021, deemed complete and circulated to staff and agencies through a formal first submission:

- Signed Authorization Letter
- Official Plan Amendment Application
- Zoning By-law Amendment Application
- OPA Text and Schedule
- ZBLA Text and Schedule
- Property deed
- Boundary Survey
- Easement Summary
- Site Plan and Elevations
- Photometrics Drawing
- Engineering Drawings
- Comment Response Matrix
- Planning Justification Report
- Functional Servicing Report
- Preliminary Stormwater Management Report
- Traffic Impact Brief
- Geotechnical Report
- Structural Engineering Letter
- Commercial and Residential Impact Study

FINANCIAL IMPACT

The Township Staff collected \$5,000 in ZBLA application fees, as well as a \$2,000 legal and engineering deposit to cover Township legal and engineering fees. In support of the OPA application, \$5,000.00 was also collected.

All costs of this development are to be borne by the applicant/developer.

Reviewed by Finance Department:



SUMMARY/OPTIONS

Council may:

1. Take no further action, in effect denying the application for reasons to be outlined by Council.
2. Receive the Report for information and that Council direct Staff to proceed with processing the subject application and the scheduling of a Public Meeting.
3. Direct Staff in another manner Council deems appropriate.

CONCLUSION

Option #2 is recommended.

Prepared by:

Respectfully submitted by:

Reviewed by:

SY

Aimee Powell

C Healey

Silva Yousif MPlan, EIT, PMP
Sr Planner

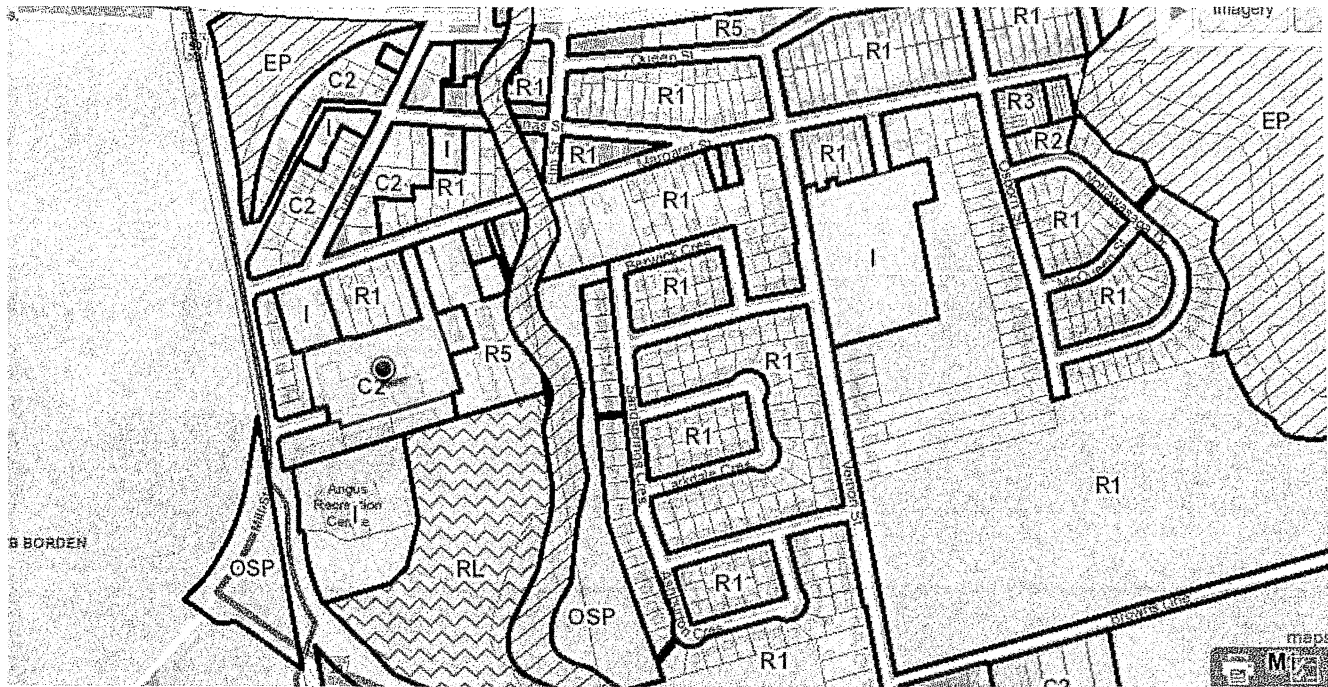
Aimee Powell BURPI, MPA, MCIP, RPP
Manager of Planning &
Development

Colleen Healey-Dowdall
CAO

Attachment "A" Context Map – 3 Massey Street

4e

Attachment A - Context Map 3 Massey Street





TOWNSHIP OF ESSA STAFF REPORT

STAFF REPORT NO.: PR001-22

DATE: February 2, 2022

TO: Committee of the Whole

FROM: Jason Coleman, Manager of Parks and Recreation

SUBJECT: Township Planter Watering 1-Year Pilot Project

RECOMMENDATION

That Staff Report PR001-22 be received; and

That Council consider directing the Manager of Parks and Recreation to proceed with a 1-year pilot project for Township Staff to fulfill the duties of watering the planters located within the Township of Essa in partnership with the Angus BIA and to water gardens previously maintained by the Angus Horticultural Society and other volunteers.

BACKGROUND

The Business Improvement Area (BIA) – Angus, Board of Management is a board selected by members of the Business Improvement Area by vote, which is followed by a formal appointment of Council for a four-year term. The BIA Board is comprised of four members from the designated BIA boundary who are current business owners and/or commercial tenants within the designated BIA, in addition to one member of Council who is appointed to sit on the Board. Their mandate is to work as a line of communication between businesses and the Township of Essa Council, while encouraging Council to pursue policies and initiatives to promote business. It is also to work cooperatively with local businesspeople with the support of the municipality to organize, finance and carry out improvement initiatives to increase the effectiveness and contribution to the economic, cultural and social well being of the community.

In previous years, the BIA created a flower Watering Contract and hired 1 Township Staff Member to perform watering of approximately 76 planters in 18 different locations on their own time on a specific, mapped route (the BIA independently coordinates the purchase, planting and installation of the flowers that are allotted for the 76 planters around Angus, to beautify the downtown centre).

It should be noted that the municipality has received notice that there is no longer a Horticultural Society in Angus. The Angus Horticultural Society previously took care of the following gardens: the Angus Cenotaph, Old Stone Garden, Clock Tower Gardens and others. There are also some new eco-friendly pollinating gardens in the municipality.

COMMENTS AND CONSIDERATIONS **22**

A 1-year pilot project for 2022 will provide the Township adequate time to evaluate the complete process to determine if this responsibility will fit into the portfolio of staff and operations within the department on a more permanent basis. Township Staff will drive

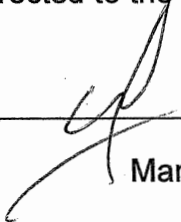


a municipal vehicle and utilize municipal equipment during their scheduled work shift, reporting to their supervisor in normal fashion.

More specifically, the task will be performed by 2 staff members to ensure road safety concerns are considered and adhered to. A Traffic Accommodation Strategy (TAS) will be implemented and proper road signage will be utilized when necessary.

FINANCIAL IMPACT

The BIA Watering Contract currently is for a total duration of 5 months starting May 15 to October 15, for a total of \$3,100. The municipality also contributed \$1,000 annually to the Angus Horticultural Society. These funds could be directed to the Parks and Recreation department for municipal operations.



Manager of Finance

SUMMARY/OPTIONS

Council may:

1. **Direct the Manager of Parks and Recreation to proceed with a 1-year pilot project for Township Staff to fulfill the duties of watering the planters located within the Township of Essa in partnership with the Angus BIA and to water gardens previously maintained by the Angus Horticultural Society and other volunteers.**
2. Take no further action and continue to allow the BIA to hire an existing Township Staff Member, if staff are willing and agree to work extra hours, prior to a regular shift or following. The problem with this is that reporting and responsibility becomes unclear; it is best to have municipal staff report to the proper supervisor for clear direction.
3. Direct Staff in another course of action, such as hiring 2 additional employees to assist with watering across the Township although funds have not been budgeted for this.

CONCLUSION

Option 1 is recommended.

Respectfully submitted,

Jason Coleman

Jason Coleman
Manager of Parks and Recreation

Reviewed by,



Colleen Healey-Dowdall,
Chief Administrative Officer

7a



TOWNSHIP OF ESSA STAFF REPORT

STAFF REPORT NO.: PW002-22

DATE: February 2, 2022

TO: Committee of the Whole

FROM: Jason Coleman – Manager of Parks and Recreation
Michael Mikael – Manager of Public Works

SUBJECT: Township of Essa Fleet Capital Purchase:
Public Works and Parks & Recreation – Three 2022 Chevrolet Silverado 1500 4WD

RECOMMENDATION

That Staff Report PW002-22 be received; and

That the quotation as received from Georgian Chevrolet Buick GMC for the Public Works and Parks & Recreation Departments fleet capital purchase be accepted in the amounts of \$83,322 and \$41,661 (excluding HST & licensing), respectively, for purchasing three 2022 Chevrolet Silverado pickup trucks in accordance with quoted specifications.

BACKGROUND

In the 2022 Capital Public Works Budget, \$110,000 (\$36,747 taxation, \$35,000 trade in, \$38,253 Capital Equipment/Roads Reserve) has been allocated for the purchase of two new pickup trucks; and

In the 2022 Capital Parks & Recreation Budget, \$55,000 (taxation) has been allocated for the purchase of one new pickup truck.

COMMENTS AND CONSIDERATIONS

Staff obtained three joint quotes from three different manufacturers/suppliers for a combined capital purchase of three pickup trucks to save on the overall Township cost. They are summarized as follows:

BIDDER	COMBINED MSRP PRICE FOR 3 PICKUP TRUCKS INCLUDING APPLIED CREDIT (excl tax & lic'g)	MANUFACTURER CREDIT FOR CAPITAL PURCHASE - MSRP	EXPECTED DELIVERY DATES
Georgian Chevrolet Buick GMC	\$124,983.00	\$15,096.00	April-2022
Ford Barrie (F150)	\$144,000.00	Nil	April-2022
Dodge Barrie (Ram1500)	\$139,842.00	Nil	June-2022

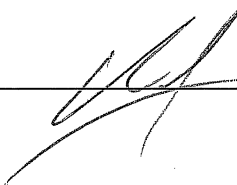
FINANCIAL IMPACT

Public Works: 2022 approved capital budget is \$110,000.

The lowest bid of \$83,322 (excluding applicable tax & licensing, emergency lights and radio communications system) is under-budget (without the above listed items).

Parks & Recreation: 2022 approved capital budget is \$55,000.

The lowest bid of \$41,661 (excluding applicable tax & licensing, and emergency lights) is under-budget (without the above listed items).



Manager of Finance

SUMMARY/OPTIONS

Council may:

1. Take no action.
2. **Award the Quotation to Georgian Chevrolet Buick GMC in the amount of \$124,983 (excluding applicable tax & licensing) for the capital purchase of three 2022 Chevrolet Silverado 1500 4WD WT.**
3. Direct Staff in another course of action.

CONCLUSION

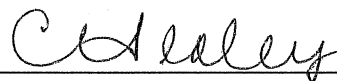
Staff recommends that option 2 be approved.

Respectfully submitted,

Michael Mikael

Michael Mikael, P.Eng,
Manager of Public Works

Reviewed by,



Colleen Healey-Dowdall,
Chief Administrative Officer

Respectfully submitted,

Jason Coleman

Jason Coleman,
Manager of Parks and Recreation





TOWNSHIP OF ESSA STAFF REPORT

STAFF REPORT NO.: CAO04-22

DATE: February 4, 2022

TO: Committee of the Whole

FROM: Colleen Healey-Dowdall, Chief Administrative Officer

SUBJECT: Joint and Several Liability – Municipal Insurance

RECOMMENDATION

That Staff Report CAO04-22 be received; and

That the 2022 proposed resolution of AMO on the issue of joint and several liability and the impact on municipal insurance be adopted and forwarded to the Attorney General.

BACKGROUND

As AMO has stated, “Municipal insurance and the impact of costs continues to be a major subject of concern for many members.” The principle of joint and several liability affecting municipal insurance makes municipalities the last resort in instances where they are not primarily responsible for an incident. This principle is costing the municipality more and more each year, not only a large amount in any given year to account for an insurance premium but limiting the municipality’s ability to improve on service delivery in other areas.

This CAO followed up on an AMO circulation in 2019 with a report to Council and a subsequent letter to the Provincial Attorney General (refer to Attachment 1). AMO is circulating the attached proposed resolution (refer to Attachment 2) at this time to encourage municipalities to put pressure on the provincial government to take action during this current term of office. This CAO strongly suggests that Council adopt the proposed resolution. Attachment 3 is an excerpt from the AMO website which further sums up the situation.

COMMENTS AND CONSIDERATIONS

Essa has spent an increasing amount on insurance in recent years – refer to the table below.

Year	Insurance Premium - Essa
2017	\$459,185
2018	\$342,747 *change in providers
2019	\$359,490
2020	\$465,806 *change in providers
2021	\$461,920
2022	\$452,702 budgeted

It should be noted that costs for cyber security are increasing, and water and sewer services are additional as well.

FINANCIAL IMPACT

No direct impact from adopting the resolution.

Manager of Finance Approval: _____



SUMMARY/OPTIONS

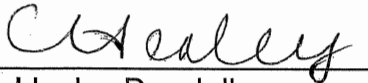
Council may:

- 1. Do nothing.
- 2. Adopt the proposed resolution of AMO, with the Essa resolution, to be forwarded to the Attorney General.
- 3. Direct staff in another course of action.

CONCLUSION

Option #2 is recommended.

Respectfully submitted:



Colleen Healey-Dowdall
CAO

Attachments:

- 1. 2019 letter, resolution and report
- 2. 2022 AMO resolution (with earlier AMO report)
- 3. Excerpt from AMO website to sum up the situation

Corporation of the Township of Essa
5786 County Road 21
Utopia, Ontario
L0M 1T0



Where Town and Country Meet

Telephone: (705) 424-9770
Fax: (705) 424-2367
Web Site: www.essatownship.on.ca

By email to: magpolicy@ontario.ca

September 19, 2019

The Honourable Doug Downey
Attorney General
McMurtry-Scott Building
720 Bay Street
11th Floor
Toronto, Ontario
M7A 2S9

**Re: Joint & Several Liability
M-2019-3638**

Dear Minister,

Thank you for providing us with the opportunity to be consulted on this topic. Joint & Several Liability has impacted on all municipalities in Ontario and has hit smaller municipalities especially hard. It has affected all of our liability premiums since we are required to cover the shortfall when other negligent parties are unable to pay and we are then responsible for the remainder of large judgements and settlement amounts.

In Essa Township, our insurance premium steadily rose by about \$40,000 between 2013 and 2017 – again, this is extremely taxing on a small municipality! In 2019, our insurance cost totalled \$360,000 which represents approximately 5% of our budget.

As a possible solution to the problem, we wonder if it is possible to establish a maximum limit at which a municipality could be held responsible for the negligence of others. Otherwise, Essa fully supports the more detailed AMO submission of April 1, 2010.

Again, thank you for this opportunity to comment.

Yours truly,

Sandie Macdonald
Mayor, Essa Township

10a

Athena Piskopos

From: Lisa Lehr
Sent: September-19-19 11:25 AM
To: Colleen Healey
Cc: Athena Piskopos
Subject: CW179-2019, re: CAO042-19 "Joint and Several Liability and Impact on Municipalities"

Please be advised that at its meeting of September 18 2019, Council passed the following:

Staff Report CAO042-19 submitted by the Chief Administrative Officer, re: Joint and Several Liability and Impact on Municipalities.

Motion as Amended:

Resolution No: CW179-2019 Moved by: Sander Seconded by: White

Be it resolved that Staff Report CAO042-19 be received; and That Council authorize staff to send a letter to the Province, prior to the end of their consultation period, to express concern for municipalities being held responsible more often for large court judgements although our responsibility for a claim might be very small, and that consequently, unless something is done, municipalities are to be continuously faced with large judgement costs, rising insurance premiums and an unfair impact on taxes and taxpayers.

---Carried---

Sincerely,

Lisa L. Lehr, CMO

Clerk
Phone 705-424-9770 extension 117
Township of Essa
5786 County Road 21
Utopia, ON L0M 1T0

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TOWNSHIP OF ESSA STAFF REPORT

STAFF REPORT NO.: CA0042-19

DATE: September 18, 2019

TO: Committee of the Whole

FROM: Colleen Healey-Dowdall, Chief Administrative Officer

SUBJECT: Joint and Several Liability and Impact on Municipalities

RECOMMENDATION

That Staff Report CA0042-19 be received; and

That a letter be sent to the Province, prior to the end of their consultation period, to express concern for small municipalities being held responsible more often for large court judgements although our responsibility for a claim might be very small, and that consequently, unless something is done, small municipalities are to be continuously faced with large judgement costs, rising insurance premiums and an unfair impact on taxes and taxpayers.

BACKGROUND

With the Canadian/Provincial law system relying on joint and several liability to ensure that victims are compensated, municipalities are put in the position of the so-called "deep-pocket" defendant. Joint and several liability means that when victims sue for damages from wrong-doers, if one wrong-doer cannot pay, then the victim can collect from the remaining wrong-doers. The premise being that this principle/system restores innocent victims to the position they would be in, had the wrong not occurred.

COMMENTS AND CONSIDERATIONS

The joint and several liability system is long-standing but more recently causing strain on small municipalities as fiscal pressures increase.

Essa, like other small municipalities, has had a concern over the past several years that we are often forced to pay for a judgement (more than our share) even when our responsibility for a claim might be small. This is caused when another defendant, often that most responsible, does not hold enough insurance and/or "walks" from a court proceeding/judgement. This is occurring more often with both, homes (when something goes wrong) and car accidents (on the rise). Essa is left "on the hook" when other defendants "walk" even if we were identified to be as little as only 1% responsible. One

municipality, in fact, was stuck with a judgement of millions of dollars even though only at fault for a very small percentage.

Paying such judgements has caused, in part, our insurance premiums to sky-rocket, putting a strain on the taxpayer.

The Provincial government is currently consulting with the public, municipalities, lawyers and insurance representatives on this matter, to attempt to seek a solution, bearing in mind that they are also hearing concern for accident benefits (the decline in these type of payouts).

This office is suggesting that the municipality write to the Province as a part of the current consultation process to end on September 27th, to express concern on this matter and the fact that municipalities are at risk of having to pay for other wrong-doers' negligence. The letter to the Province should quote the recent increase to our insurance premiums.

It is further suggested by this office that Essa could suggest to the Province, a cap be placed on the amount that we could be held responsible for, to ensure that we are able to plan for our potential loss, for budgeting purposes.

FINANCIAL IMPACT

None.

SUMMARY/OPTIONS

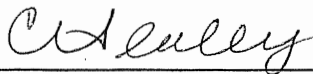
Council may:

1. Take no further action.
2. Send comments to the Province in response to their call for comments on joint and several liability.
3. Direct staff as Council may wish.

CONCLUSION

Option #2 is recommended.

Respectfully submitted:



Colleen Healey-Dowdall
CAO

Attachments: None.



Towards a Reasonable Balance:

Addressing growing municipal liability and insurance costs

Submission to the Attorney General of Ontario

October 1, 2019

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Sent via email to: doug.downeyco@pc.ola.org
magpolicy@ontario.ca

October 1, 2019

The Honourable Doug Downey
Attorney General of Ontario
McMurtry-Scott Building, 11th Floor
720 Bay Street
Toronto, Ontario
M7A 2S9

Dear Attorney General Downey,

Municipal governments accept the responsibility to pay their fair share of a loss. Always. Making it right and paying a fair share are the cornerstones of our legal system. Citizens expect nothing less of their local governments.

But what is a challenge for municipalities and property taxpayers alike, is being asked to assume someone else's responsibility for someone else's mistake. Municipal governments should not be the insurer of last resort. For municipalities in Ontario, however, the principle of joint and several liability ensures that they are just that.

Joint and several liability means higher insurance costs. It diverts property tax dollars from delivering public services. It has transformed municipalities into litigation targets while others escape responsibility. It forces municipal government to settle out-of-court for excessive amounts when responsibility is as low as 1%.

There must be a better way. There must be a better way to help ensure those who suffer losses are made whole again without asking municipalities to bear that burden alone. There must be a better way to be fair, reasonable, and responsible.

AMO welcomes the government's commitment to review joint and several liability. It is a complex issue that has many dimensions. Issues of fairness, legal principles, "liability chill", insurance failures and high insurance costs are all intertwined. Many other jurisdictions have offered additional protection for municipalities and AMO calls on the Ontario government to do the same.

What follows is a starting point for that discussion. Our paper reasserts key issues from AMO's 2010 paper, AMO's 2011 insurance cost survey, provides more recent examples, and details some possible solutions of which there are many options.

Municipalities are in the business of delivering public services. Municipal governments exist to connect people and to advance the development of a community. It is time to find a reasonable balance to prevent the further scaling back of public services owing to joint and several liability, "liability chill", or excessive insurance costs.

10a



Towards a Reasonable Balance:
~~Addressing growing municipal liability and insurance costs~~

Together with the provincial government, I am confident we can find a better way.

Sincerely,

A handwritten signature in black ink, appearing to read 'JMCG', with a long horizontal line extending to the right.

Jamie McGarvey
AMO President



Executive Summary

AMO's advocacy efforts on joint and several liability in no way intends for aggrieved parties to be denied justice or damages through the courts. Rather, municipal governments seek to highlight the inequity of how much "deep pocket" defendants like municipalities are forced to pay, for both in and out of court settlements.

It is entirely unfair to ask property taxpayers to carry the lion's share of a damage award when a municipality is found at minimal fault or to assume responsibility for someone else's mistake.

Municipal governments cannot afford to be the insurer of last resort. The principle of joint and several liability is costing municipalities and taxpayers dearly, in the form of rising insurance premiums, service reductions and fewer choices. The *Negligence Act* was never intended to place the burden of insurer of last resort on municipalities.

As public organizations with taxation power and "deep pockets," municipalities have become focal points for litigation when other defendants do not have the means to pay. At the same time, catastrophic claim awards in Ontario have increased considerably. In part, joint and several liability is fueling exorbitant increases in municipal insurance premiums.

The heavy insurance burden and legal environment is unsustainable for Ontario's communities. Despite enormous improvements to safety, including new standards for playgrounds, pool safety, and better risk management practices, municipal insurance premiums and liability claims continue to increase. All municipalities have risk management policies to one degree or another and most large municipalities now employ risk managers precisely to increase health and safety and limit liability exposure in the design of facilities, programs, and insurance coverage. Liability is a top of mind consideration for all municipal councils.

Joint and several liability is problematic not only because of the disproportioned burden on municipalities that are awarded by courts. It is also the immeasurable impact of propelling municipalities to settle out of court to avoid protracted and expensive litigation for amounts that may be excessive, or certainly represent a greater percentage than their degree of fault.

Various forms of proportionate liability have now been enacted by all of Ontario's competing Great Lakes states. In total, 38 other states south of the border have adopted proportionate liability in specific circumstances to the benefit of municipalities. Many common law jurisdictions around the world have adopted legal reforms to limit the exposure and restore balance. With other Commonwealth jurisdictions and the majority of state governments in the United States having modified the rule of joint and several liability in favour of some form of proportionate liability, it is time for Ontario to consider various options.

There is precedence in Ontario for joint and several liability reform. The car leasing lobby highlighted a particularly expensive court award made in November of 2004 against a car leasing company by the victim of a drunk driver. The August 1997 accident occurred when the car skidded off a county road near Peterborough, Ontario. It exposed the inequity of joint and several liability for car leasing companies. The leasing companies argued to the government that the settlement had put them at a competitive disadvantage to lenders. They also warned that such liability conditions would likely drive some leasing and rental companies to reduce their business in Ontario. As a result, Bill 18 amended the *Compulsory Automobile Insurance Act*, the *Highway Traffic*

Act and the Ontario *Insurance Act* to make renters and lessees vicariously liable for the negligence of automobile drivers and capped the maximum liability of owners of rental and leased cars at \$1 million. While Bill 18 has eliminated the owners of leased and rented cars as “deep pocket” defendants, no such restrictions have been enacted to assist municipalities.

A 2011 survey conducted by AMO reveals that since 2007, liability premiums have increased by 22.2% and are among the fastest growing municipal costs. Total 2011 Ontario municipal insurance costs were \$155.2 million. Liability premiums made up the majority of these expenses at \$85.5 million. Property taxpayers are paying this price.

These trends are continuing. In August of 2019, it was reported the Town of Bradford West Gwillimbury faces a 59% insurance cost increase for 2019. This is just one example. AMO encourages the municipal insurance industry to provide the government with more recent data and trends to support the industry’s own arguments regarding the impact joint and several has on premiums.

Insurance costs disproportionately affect small municipalities. For 2011, the per capita insurance costs for communities with populations under 10,000 were \$37.56. By comparison, per capita costs in large communities with populations over 75,000 were \$7.71. Property taxpayers in one northern community are spending more on insurance than their library. In one southern county, for every \$2 spent on snowplowing roads, another \$1 is spent on insurance.

In 2016, the Ontario Municipal Insurance Exchange (OMEX), a not-for-profit insurer, announced that it was suspending reciprocal underwriting operations. The organization cited, a “low pricing environment, combined with the impact of joint and several liability on municipal claim settlements” as reasons for the decision. Fewer choices fuels premium increases.

Learning from other jurisdictions is important for Ontario. The Province of Saskatchewan has implemented liability reforms to support its municipalities. As a municipal lawyer at the time, Neil Robertson, QC was instrumental in laying out the arguments in support of these changes. Now a Justice of the Court of Queen’s Bench for Saskatchewan, AMO was pleased to have Neil Robertson prepare a paper and address AMO conference delegates in 2013. Much of the Saskatchewan municipal experience (which led to reforms) is applicable to the Ontario and the Canadian municipal context. Summarised below and throughout this paper are some of Robertson’s key findings.

Robertson found that, regardless of the cause, over the years municipalities in Canada have experienced an accelerating rate of litigation and an increase in amounts of damage awards. He noted these developments challenge municipalities and raise financial, operational and policy issues in the provision of public services.

Robertson describes the current Canadian legal climate as having placed municipalities in the role of involuntary insurer. Courts have assigned municipal liability where liability was traditionally denied and apportioned fault to municipal defendants out of proportion to municipal involvement in the actual wrong.

This increased exposure to liability has had serious ramifications for municipalities, both as a deterrent to providing public services which may give rise to claims and in raising the cost and reducing the availability of insurance. The cost of claims has caused insurers to reconsider not only

what to charge for premiums, but whether to continue offering insurance coverage to municipal clients.

Robertson also makes the key point that it is reasonable for municipal leaders to seek appropriate statutory protections. He wrote:

“Since municipalities exist to improve the quality of life for their citizens, the possibility of causing harm to those same citizens is contrary to its fundamental mission. Careful management and wise stewardship of public resources by municipal leaders will reduce the likelihood of such harm, including adherence to good risk management practices in municipal operations. But wise stewardship also involves avoiding the risk of unwarranted costs arising from inevitable claims.”

And, of course, a key consideration is the reality that insurance premiums, self-insurance costs, and legal fees divert municipal funds from other essential municipal services and responsibilities.

It is in this context that AMO appreciated the commitments made by the Premier and the Attorney General to review the principle of joint and several liability, the impact it has on insurance costs, and the influence “liability chill” has on the delivery of public services. Now is the time to deliver provincial public policy solutions which address these issues.

Recommendations

AMO recommends the following measures to address these issues:

1. The provincial government adopt a model of full proportionate liability to replace joint and several liability.
2. Implement enhancements to the existing limitations period including the continued applicability of the existing 10-day rule on slip and fall cases given recent judicial interpretations, and whether a 1-year limitation period may be beneficial.
3. Implement a cap for economic loss awards.
4. Increase the catastrophic impairment default benefit limit to \$2 million and increase the third-party liability coverage to \$2 million in government regulated automobile insurance plans.
5. Assess and implement additional measures which would support lower premiums or alternatives to the provision of insurance services by other entities such as non-profit insurance reciprocals.
6. Compel the insurance industry to supply all necessary financial evidence including premiums, claims, and deductible limit changes which support its, and municipal arguments as to the fiscal impact of joint and several liability.
7. Establish a provincial and municipal working group to consider the above and put forward recommendations to the Attorney General.

Insurance Cost Examples

The government has requested detailed information from municipalities regarding their insurance costs, coverage, deductibles, claims history, and out-of-court settlements. Municipalities have been busy responding to a long list of provincial consultations on a wide range of topics. Some of the information being sought is more easily supplied by the insurance industry. AMO's 2011 survey of insurance costs produced a sample size of 122 municipalities and assessed insurance cost increases over a five-year period. The survey revealed an average premium increase which exceeded 20% over that period.

All of the same forces remain at play in 2019 just as they were in 2011. Below are some key examples.

Ear Falls - The Township of Ear Falls reports that its insurance premiums have increased 30% over five years to \$81,686. With a population of only 995 residents (2016), this represents a per capita cost of \$82.09. This amount is a significant increase from AMO's 2011 Insurance Survey result. At that time, the average per capita insurance cost for a community with a population under 10,000 was \$37.56. While the Township has not been the subject of a liability claim, a claim in a community of this size could have significant and long-lasting financial and service implications. The Township has also had to impose stricter insurance requirements on groups that rent municipal facilities. This has had a negative impact on the clubs and volunteers' groups and as a consequence, many have cut back on the service these groups provide to the community.

Central Huron - For many years the municipality of Central Huron had a deductible of \$5,000. In 2014, the deductible was increased to \$15,000 to help reduce insurance costs. The municipality also increased its liability coverage in 2014 and added cyber security coverage in 2018. The combined impact of these changes represents a premium cost of \$224,774 in 2019, up from \$141,331 in 2010. Per capita costs for insurance alone are now \$29.67.

Huntsville - Since 2010, the Town of Huntsville reports an insurance premium increase of 67%. In 2019 this represented about 3.75% of the town's property tax levy. At the same time, Huntsville's deductible has increased from \$10,000 to \$25,000. The town also reports a reluctance to hold its own events for fear of any claims which may affect its main policy. Additional coverage is purchased for these events and these costs are not included above.

Ottawa - In August 2018, the City began working with its insurance broker, Aon Risk Solutions ("Aon"), to prepare for the anticipated renewal of the Integrated Insurance Program in April 2019. As the cost of the City's insurance premiums had risen by approximately 25% between 2017 and 2018, this early work was intended to ensure that any further increase could be properly accounted for through the 2019 budget process. Early indications of a possible further 10% premium increase prompted the City and Aon in late 2018 to explore options for a revised Program, and to approach alternative markets for the supply of insurance.

On January 11, 2019, an OC Transpo bus collided with a section of the Westboro Station transit shelter, resulting in three fatalities and numerous serious injuries. This was the second major incident involving the City's bus fleet, following approximately five years after the OC Transpo - VIA train collision in September 2013.



The January 2019 incident prompted insurance providers to re-evaluate their willingness to participate in the City Program. Despite Aon's work to secure an alternative provider, only Frank Cowan Company ("Cowan"), the City's existing insurer, was prepared to offer the City an Integrated Insurance Program. Cowan's offer to renew the City's Program was conditional on revised terms and limits and at a significant premium increase of approximately 84%, or nearly \$2.1 million per year. According to Cowan, these changes and increases were attributable to seven principle factors, including Joint and Several Liability:

1. Escalating Costs of Natural Global Disasters;
2. Joint and Several Liability;
3. Claims Trends (in the municipal sector);
4. Increasing Damage Awards;
5. Class Action Lawsuits;
6. New and/or Adverse Claims Development; and,
7. Transit Exposure.

Cowan also indicated that the primary policy limits for the 2019-2020 renewal would be lowered from \$25 million to \$10 million per occurrence, thereby raising the likelihood of increased costs for the City's excess liability policies.

Joint and Several in Action - Recent Examples

The following examples highlight joint and several in action. The following examples have occurred in recent years.

GTA Municipality – A homeowner rented out three separate apartments in a home despite being zoned as a single-family dwelling. After a complaint was received, bylaw inspectors and Fire Prevention Officers visited the property. The landlord was cautioned to undertake renovations to restore the building into a single-family dwelling. After several months of non-compliance, charges under the fire code were laid. The owner was convicted and fined. A subsequent visit by Fire Prevention Officers noted that the required renovations had not taken place. Tragically, a fire occurred which resulted in three fatalities. Despite having undertaken corrective action against the homeowner, joint and several liability loomed large. It compelled the municipality to make a payment of \$504,000 given the 1% rule.

City of Ottawa - A serious motor vehicle accident occurred between one of the City's buses and an SUV. The collision occurred at an intersection when the inebriated driver of the SUV failed to stop at a red light and was struck by the City bus. This collision resulted in the deaths of the SUV driver and two other occupants, and also seriously injured the primary Plaintiff, the third passenger in the SUV. The secondary action was brought by the family of one of the deceased passengers.

The Court ultimately concluded that the City was 20% liable for the collision, while the SUV driver was 80% at fault. Despite the 80/20 allocation of fault, the City was required to pay all of the approximately \$2.1 million in damages awarded in the primary case and the \$200,000 awarded in the secondary case, bringing the amount paid by the City to a total that was not proportionate to its actual liability. This was due to the application of the principle of joint and several liability, as well as the interplay between the various automobile insurance policies held by the SUV owner and

passengers, which is further explained below. Although the City appealed this case, the Ontario Court of Appeal agreed with the findings of the trial judge and dismissed it.

This case was notable for the implications of various factors on the insurance policies held by the respective parties. While most automobile insurance policies in Ontario provide for \$1 million in third party liability coverage, the insurance for the SUV was reduced to the statutory minimum of \$200,000 by virtue of the fact that the driver at the time of the collision had a blood alcohol level nearly three times the legal limit for a fully licensed driver. This was contrary to the requirements of his G2 license, which prohibit driving after the consumption of any alcohol. Further, while the Plaintiff passengers' own respective insurance provided \$1 million in coverage for underinsured motorists (as the SUV driver was at the time), this type of coverage is triggered only where no other party is in any way liable for the accident. As a result, the primary Plaintiff could only effectively recover the full \$2.1 million in damages if the Court attributed even a small measure of fault to another party with sufficient resources to pay the claim.

In determining that the City was at least partially responsible for the collision, the Court held that the speed of the bus – which according to GPS recordings was approximately 6.5 km/h over the posted limit of 60 kilometres an hour – and momentary inattention were contributing factors to the collision.

To shorten the length of the trial by approximately one week and accordingly reduce the legal costs involved, the parties had earlier reached an agreement on damages and that the findings regarding the primary Plaintiff would apply equally to the other. The amount of the agreement-upon damages took into account any contributory negligence on the part of the respective Plaintiffs, attributable to such things as not wearing a seat belt.

City of Ottawa, 2nd example – A Plaintiff was catastrophically injured when, after disembarking a City bus, he was struck by a third-party motor vehicle. The Plaintiff's injuries included a brain injury while his impairments included incomplete quadriplegia.

As a result of his accident, the Plaintiff brought a claim for damages for an amount in excess of \$7 million against the City and against the owner and driver of the third-party vehicle that struck him. Against the City, the Plaintiff alleged that the roadway was not properly designed and that the bus stop was placed at an unsafe location as it required passengers to cross the road mid-block and not at a controlled intersection.

Following the completion of examinations for discovery, the Plaintiff's claim against the Co-Defendant (the driver of the vehicle which struck the plaintiff) was resolved for \$1,120,000 comprising \$970,000 for damages and \$120,000 for costs. The Co-Defendant's policy limit was \$1 million. The claim against the City was in effect, a "1% rule" case where the City had been added to the case largely because the Co-Defendant's insurance was capped at \$1 million, which was well below the value of the Plaintiff's claim.

On the issue of liability, the pre-trial judge was of the view that the City was exposed to a finding of some liability against it on the theory that, because of the proximity of the bus stop to a home for adults with mental health issues, the City knew or should have known that bus passengers with cognitive and/or physical disabilities would be crossing mid-block at an unmarked crossing. This, according to the judge, could have resulted in a finding being made at trial that the City should

either have removed the bus stop or alternatively, should have installed a pedestrian crossing at this location.

The judge assessed the Plaintiff's damages at \$7,241,000 exclusive of costs and disbursements which he then reduced to \$4,602,930 exclusive of costs and disbursements after applying a reduction of 27.5% for contributory negligence and subtracting the \$970,000 payment made by the Co-Defendant's insurer.

Settlement discussions took place and the judge recommended that the matter be resolved for \$3,825,000 plus costs of \$554,750 plus HST plus disbursements.

Joint and Several Liability in Action - Other notable cases

Deering v Scugog - A 19-year-old driver was driving at night in a hurry to make the start time of a movie. She was travelling on a Class 4 rural road that had no centerline markings. The Ontario Traffic Manual does not require this type of road to have such a marking. The driver thought that a vehicle travelling in the opposite direction was headed directly at her. She swerved, over-corrected and ended up in a rock culvert. The Court found the Township of Scugog 66.7% liable. The at-fault driver only carried a \$1M auto insurance policy.

Ferguson v County of Brant - An inexperienced 17-year-old male driver was speeding on a road when he failed to navigate a curve which resulted in him crossing the lane into oncoming traffic, leaving the roadway, and striking a tree. The municipality was found to have posted a winding road sign rather than a sharp curve sign. The municipality was found 55% liable.

Safranyos et al v City of Hamilton - The plaintiff was leaving a drive-in movie theatre with four children in her vehicle at approximately 1 AM. She approached a stop sign with the intention of turning right onto a highway. Although she saw oncoming headlights she entered the intersection where she was struck by a vehicle driven 15 km/h over the posted speed limit by a man who had just left a party and was determined by toxicologists to be impaired. The children in the plaintiff's vehicle suffered significant injuries. The City was determined to be 25% liable because a stop line had not been painted on the road at the intersection.

Mortimer v Cameron - Two men were engaged in horseplay on a stairway and one of them fell backward through an open door at the bottom of a landing. The other man attempted to break the first man's fall and together they fell into an exterior wall that gave way. Both men fell 10 feet onto the ground below, one of whom was left quadriplegic. The trial judge determined both men were negligent, but that their conduct did not correspond to the extent of the plaintiff's injuries. No liability was attached to either man. The building owner was determined to be 20% and the City of London was found to be 80% liable. The Court awarded the plaintiff \$5 M in damages. On appeal, the City's liability was reduced to 40% and building owner was determined to be 60% liable. The City still ended up paying 80% of the overall claim.

2011 Review of Joint and Several Liability – Law Commission of Ontario

In February 2011 the Law Commission of Ontario released a report entitled, *"Joint and Several Liability Under the Ontario Business Corporations Act"*. This review examined the application of

joint and several liability to corporate law and more specifically the relationship between the corporation and its directors, officers, shareholders and stakeholders.

Prior to the report's release, AMO made a submission to the Law Commission of Ontario to seek to expand its review to include municipal implications. The Law Commission did not proceed with a broader review at that time, but the context of its narrower scope remains applicable to municipalities. In fact, many of the same arguments which support reform in the realm of the *Business Corporations Act*, are the same arguments which apply to municipal governments.

Of note, the Law Commission's¹ report highlighted the following in favour of reforms:

Fairness: "it is argued that it is unfair for a defendant, whose degree of fault is minor when compared to that of other defendants, to have to fully compensate a plaintiff should the other defendants be insolvent or unavailable."

Deep Pocket Syndrome: "Joint and several liability encourages plaintiffs to unfairly target defendants who are known or perceived to be insured or solvent."

Rising Costs of Litigation, Insurance, and Damage Awards: "Opponents of the joint and several liability regime are concerned about the rising costs of litigation, insurance, and damage awards."

Provision of Services: "The Association of Municipalities of Ontario identifies another negative externality of joint and several liability: municipalities are having to delay or otherwise cut back services to limit exposure to liability."

The Law Commission found that the principle of joint and several liability should remain in place although it did not explicitly review the municipal situation.

2014 Resolution by the Ontario Legislature and Review by the Attorney General

Over 200 municipalities supported a motion introduced by Randy Pettapiece, MPP for Perth-Wellington which called for the implementation a comprehensive, long-term solution in 2014. That year, MPPs from all parties supported the Pettapiece motion calling for a reform joint and several liability.

Later that year the Ministry of the Attorney General consulted on three options of possible reform:

1. The Saskatchewan Model of Modified Proportionate Liability

Saskatchewan has adopted a modified version of proportionate liability that applies in cases where a plaintiff is contributorily negligent. Under the Saskatchewan rule, where a plaintiff is contributorily negligent and there is an unfunded liability, the cost of the unfunded liability is split among the remaining defendants and the plaintiff in proportion to their fault.

¹ Law Commission of Ontario. "Joint and Several Liability Under the Ontario *Business Corporations Act*." Final Report, February 2011 Pages 22-25.

2. Peripheral Wrongdoer Rule for Road Authorities

Under this rule, a municipality would never be liable for more than two times its proportion of damages, even if it results in the plaintiff being unable to recover full damages.

3. A combination of both of the above

Ultimately, the government decided not to pursue any of the incremental policy options ostensibly because of uncertainty that insurance cost reductions would result. This was a disappointing result for municipalities.

While these reviews did not produce results in Ontario, many other common law jurisdictions have enacted protections for municipalities. What follows are some of the options for a different legal framework.

Options for Reform – The Legal Framework

To gain a full appreciation of the various liability frameworks that could be considered, for comparison, below is a description of the current joint and several liability framework here in Ontario. This description will help to reader to understand the further options which follow.

This description and the alternatives that follow are taken from the Law Commission of Ontario's February 2011 Report entitled, *"Joint and Several Liability Under the Ontario Business Corporations Act"* as referenced above.²

Understanding the Status Quo and Comparing it to the Alternatives

Where three different defendants are found to have caused a plaintiff's loss, the plaintiff is entitled to seek full payment (100%) from any one of the defendants. The defendant who fully satisfies the judgment has a right of contribution from the other liable parties based on the extent of their responsibility for the plaintiff's loss.

For example, a court may find defendants 1 (D1), 2 (D2) and 3 (D3) responsible for 70%, 20%, and 10% of the plaintiff's \$100,000 loss, respectively. The plaintiff may seek to recover 100% of the loss from D2, who may then seek contribution from D1 and D3 for their 70% and 10% shares of the loss. If D1 and/or D3 is unable to compensate D2 for the amount each owes for whatever reason, such as insolvency or unavailability, D2 will bear the full \$100,000 loss. The plaintiff will be fully compensated for \$100,000, and it is the responsibility of the defendants to apportion the loss fairly between them.

The descriptions that follow are abridged from pages 9-11 of the Law Commission of Ontario's report. These are some of the key alternatives to the status quo.

² Ibid. Page 7.

1. Proportionate Liability

a) Full Proportionate Liability

A system of full proportionate liability limits the liability of each co-defendant to the proportion of the loss for which he or she was found to be responsible. Per the above example, (in which Defendant 1 (D1) is responsible for 70% of loss, Defendant 2 (D2) for 20% and Defendant 3 (D3) for 10%), under this system, D2 will only be responsible for \$20,000 of the \$100,000 total judgement: equal to 20% of their share of the liability. Likewise, D1 and D3 will be responsible for \$70,000 and \$10,000. If D1 and D3 are unable to pay, the plaintiff will only recover \$20,000 from D2.

b) Proportionate Liability where Plaintiff is Contributorily Negligent

This option retains joint and several liability when a blameless plaintiff is involved. This option would cancel or adjust the rule where the plaintiff contributed to their loss. As in the first example, suppose the plaintiff (P) contributed to 20% of their \$100,000 loss. D1, D2 and D3 were responsible for 50%, 20% and 10% of the \$100,000. If D1 and D3 are unavailable, P and D2 will each be responsible for their \$20,000 shares. The plaintiff will remain responsible for the \$60,000 shortfall as a result of the absent co-defendants' non-payment (D1 and D3).

c) Proportionate Liability where Plaintiff is Contributorily Negligent with a Proportionate Reallocation of an Insolvent, Financially Limited or Unavailable Defendant's Share

In this option of proportionate liability, the plaintiff and remaining co-defendants share the risk of a defendant's non-payment. The plaintiff (P) and co-defendants are responsible for any shortfall in proportion to their respective degrees of fault.

Using the above example of the \$100,000 total judgement, with a shortfall payment of \$50,000 from D1 and a shortfall payment \$10,000 from D3, P and D2 must pay for the missing \$60,000. P and D2 have equally-apportioned liability, which causes them to be responsible for half of each shortfall - \$25,000 and \$5,000 from each non-paying defendant. The burden is shared between the plaintiff (if determined to be responsible) and the remaining defendants.

d) Proportionate Liability with a Peripheral Wrongdoer

Under this option, a defendant will be proportionately liable only if their share of the liability falls below a specified percentage, meaning that liability would be joint and several. Using the above example, if the threshold amount of liability is set at 25%, D2 and D3 would only be responsible for 20% and 10%, regardless of whether they are the only available or named defendants. However, D1 may be liable for 100% if it is the only available or named defendant. This system tends to favour defendants responsible for a small portion of the loss, but the determination of the threshold amount between joint and several liability and proportionate liability is arbitrary.

e) Proportionate Liability with a Reallocation of Some or All of an Insolvent or Unavailable Defendant's Share

This option reallocates the liability of a non-paying defendant among the remaining defendants in proportion to their respective degrees of fault. The plaintiff's contributory negligence does not

impact the application of this reallocation. Joint and several liability would continue to apply in cases of fraud or where laws were knowingly violated.

f) Court Discretion

Similar to the fraud exception in the option above, this option includes giving the courts discretion to apply different forms of liability depending on the case.

For example, if a particular co-defendant's share of the fault was relatively minor the court would have discretion to limit that defendant's liability to an appropriate portion.

2. Legislative Cap on Liability

Liability concerns could be addressed by introducing a cap on the amount of damages available for claims for economic loss.

3. Hybrid

A number of jurisdictions provide a hybrid system of proportionate liability and caps on damages. Co-defendants are liable for their portion of the damages, but the maximum total amount payable by each co-defendant is capped to a certain limit.

The Saskatchewan Experience

As referenced earlier in this paper, the Province of Saskatchewan responded with a variety of legislative actions to assist municipalities in the early 2000s. Some of those key developments are listed below which are abridged from *"A Question of Balance: Legislative Responses to Judicial Expansion of Municipal Liability – the Saskatchewan Experience."* The paper was written by Neil Robertson, QC and was presented to the annual conference of the Association of Municipalities of Ontario in 2013. Two key reforms are noted below.

1. Reforming joint and several liability by introducing modified proportionate liability: "The Contributory Negligence Act" amendments

The *Contributory Negligence Act* retained joint and several liability, but made adjustments in cases where one or more of the defendants is unable to pay its share of the total amount (judgement). Each of the parties at fault, including the plaintiff if contributorily negligent, will still have to pay a share of the judgement based on their degree of fault. However, if one of the defendants is unable to pay, the other defendants who are able to pay are required to pay only their original share and an additional equivalent share of the defaulting party's share.

The change in law allows municipalities to reach out-of-court settlements, based on an estimate of their degree of fault. This allows municipalities to avoid the cost of protracted litigation.

Neil Robertson provided the following example to illustrate how this works in practise:

"...If the owner of a house sues the builder for negligent construction and the municipality, as building authority, for negligent inspection, and all three are found equally at fault, they would each be apportioned 1/3 or 33.3%. Assume the damages are \$100,000. If the builder has no funds, then the municipality would pay only its share (\$33,333) and a 1/3 share of the builder's defaulting share

(1/3 of \$33,333 or \$11,111) for a total of \$44,444 (\$33,333 + \$11,111), instead of the \$66,666 (\$33,333 + \$33,333) it would pay under pure joint and several liability.”

This model will be familiar to municipal leaders in Ontario. In 2014, Ontario’s Attorney General presented this option (called the Saskatchewan Model of Modified Proportionate Liability) for consideration. At the time, over 200 municipal councils supported the adoption of this option along with the “Peripheral Wrongdoer Rule for Road Authorities” which would have seen a municipality never be liable for more than two times its proportion of damages, even if it results in the plaintiff being unable to recover full damages. These two measures, if enacted, would have represented a significant incremental step to address the impact of joint and several to Ontario municipalities.

2. Providing for uniform limitation periods while maintaining a separate limitation period for municipalities: “The Limitations Act”

This act established uniform limitation periods replacing many of the pre-existing limitation periods that had different time periods. The Municipal Acts in Saskatchewan provide a uniform one-year limitation period “from time when the damages were sustained” in absolute terms without a discovery principle which can prolong this period. This helps municipalities to resist “legacy” claims from many years beforehand. This act exempts municipalities from the uniform two-year discoverability limitation period.

Limitation periods set deadlines after which claims cannot be brought as lawsuits in the courts. The legislation intends to balance the opportunity for potential claimants to identify their claims and, if possible, negotiate a settlement out of court before starting legal action with the need for potential defendants to “close the books” on claims from the past.

The reasoning behind these limitations is that public authorities, including municipalities, should not to be punished by the passage of time. Timely notice will promote the timely investigation and disposition of claims in the public interest. After the expiry of a limitation period, municipalities can consider themselves free of the threat of legal action, and continue with financial planning without hurting “the public taxpayer purse”. Municipalities are mandated to balance their budgets and must be able to plan accordingly. Thus, legacy claims can have a very adverse affect on municipal operations.

Here in Ontario, there is a uniform limitations period of two years. Municipalities also benefit from a 10-day notice period which is required for slip and fall cases. More recently, the applicability of this limitation deadline has become variable and subject to judicial discretion. Robertson’s paper notes that in Saskatchewan, courts have accepted the one-year limitations period. A further examination of limitations in Ontario may yield additional benefits and could include the one-year example in Saskatchewan and/or the applicability of the 10-day notice period for slip and fall cases.

Other Saskatchewan reforms

Saskatchewan has also implemented other reforms which include greater protections for building inspections, good faith immunity, duty of repair, no fault insurance, permitting class actions, and limiting nuisance actions. Some of these reforms are specific to Saskatchewan and some of these currently apply in Ontario.



Insurance Related Reforms

Government Regulated Insurance Limits

The April 2019 provincial budget included a commitment to increase the catastrophic impairment default benefit limit to \$2 million. Public consultations were led by the Ministry of Finance in September 2019. AMO wrote to the Ministry in support of increasing the limit to \$2 million to ensure more adequate support those who suffer catastrophic impairment.

In 2016, the government lowered this limit as well as third-party liability coverage to \$200,000 from \$1 million. This minimum should also be also be increased to \$2 million to reflect current actual costs. This significant deficiency needs to be addressed.

Insurance Industry Changes

In 1989 the Ontario Municipal Insurance Exchange (OMEX) was established as a non-profit reciprocal insurance provider for Ontario's municipalities. It ceased operations in 2016 citing, "[a] low pricing environment, combined with the impact of joint & several liability on municipal claim settlements has made it difficult to offer sustainable pricing while still addressing the municipalities' concern about retro assessments."³ (Retro assessments meant paying additional premiums for retroactive coverage for "long-tail claims" which made municipal budgeting more challenging.)

The demise of OMEX has changed the municipal insurance landscape in Ontario. That joint and several liability is one of the key reasons listed for the collapse of a key municipal insurer should be a cause for significant concern. Fewer choices fuels cost. While there are other successful municipal insurance pools in Ontario, the bulk of the insurance market is dominated by for-profit insurance companies.

Reciprocal non-profit insurers are well represented in other areas across Canada. Municipalities in Saskatchewan, Alberta, British Columbia are all insured by non-profit reciprocals.

The questions for policy makers in Ontario:

Are there any provincial requirements or regulations which could better support the non-profit reciprocal municipal insurance market?

What actions could be taken to better protect municipalities in Ontario in sourcing their insurance needs?

How can we drive down insurance costs to better serve the needs of municipal property taxpayers?

³ Canadian Underwriter, August 11, 2016 <https://www.canadianunderwriter.ca/insurance/ontario-municipal-insurance-exchange-suspends-underwriting-operations-1004098148/>

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Conclusion

This AMO paper has endeavoured to refresh municipal arguments on the need to find a balance to the issues and challenges presented by joint and several liability. It has endeavoured to illustrate that options exist and offer the reassurance that they can be successfully implemented as other jurisdictions have done.

Finding solutions that work will require provincial and municipal commitment. Working together, we can find a better way that is fair, reasonable, and responsible. It is time to find a reasonable balance.

Municipal Implications

Municipal insurance and the impact of costs continues to be a major subject of concern for many AMO members. Many municipalities in Ontario are reporting increases to insurance costs of more than 20%. These costs are being driven by a “tight” insurance market, climate change, increased litigation, and other factors that increase claims as well as Ontario’s joint and several liability regime.

Joint and several liability makes municipal governments the insurers of last resort in instances where they are not primarily responsible for an incident. This principle costs municipalities and taxpayers in the form of rising insurance premiums which can lead to service reductions and fewer choices. AMO believes this is unfair to property taxpayers and their communities to carry the lion’s share of a damage award when a municipality is found at minimal fault.

A solution must be found that protects municipal taxpayers while also sensitively providing for the needs of victims of catastrophic loss incidents. In addition to joint and several liability reform, potential changes that could be explored includes a provincial fund for catastrophic losses to individuals that could limit municipal exposure to health costs and pooling of insurance amongst municipalities to lower costs.

While municipal governments are awaiting a meaningful solution to these concerns, councils continue to need to redirect property tax dollars to pay rising insurance premiums. This is funding that could go into improving and expanding needed services to residents and businesses.

The Attorney General of Ontario is aware of issues regarding joint and several liability and increasing insurance costs for municipalities and in 2019 wrote to all Heads of Councils seeking municipal perspectives on joint and several liability, insurance costs, and “liability chill” affecting public services. AMO and municipal governments continue to look forward to provincial action to help with these issues and to propose options that can help our members.

Background

Liability reform represents a longstanding request of municipal governments. It is important to stress that municipal advocacy on this issue strives to ensure justice to injured parties that is proportionate to responsibility.

In response to the Attorney General’s consultation, AMO submitted *Towards a Reasonable Balance – Addressing Growing Municipal Liability and Insurance Costs* in October 2019 that provides a refresh on the municipal argument to find a balance to the issues and challenges presented by joint and several liability, including implementing full proportionate liability and a cap on economic loss awards. The submission broadly illustrates to the government that options exist and offers the reassurance that they can be successfully implemented as other jurisdictions have done. Since then, in meetings with the Attorney General’s Ministry, AMO has suggested examining a provincial

catastrophic loss fund and continues to view municipal insurance pooling as a potential option to contain variable insurance costs.

For more information, please see [AMO's Liability Reform paper](#) or view our 2011 [Managing the Cost of Risk Insurance](#) survey results.

AMO will continue to advocate for solutions that help municipalities to afford insurance while protecting residents and businesses and the services they rely on.

Joint and Several Liability

If other parties are unable to pay, damages can be recovered from any defendant, even if they are deemed just one per cent responsible.

As a result, a fraction of fault can push municipalities to pay huge damage awards. Often, they are targeted deliberately as "deep pocket" insurers when other defendants do not have the means to pay.