



Regular Meeting of Council
Addendum

Date: August 24, 2020
Time: 1:00 pm
Location: Council Chambers - members participating remotely

Due to COVID-19 this meeting will be conducted as a virtual meeting, with no public attendance. Only the Mayor, along with a clerk and audio/visual technician, will be in council chambers, with all other staff and members of council participating in the meeting by calling in remotely. The meeting will be live web streamed, as usual, and archived on the city website.

Pages

9. Delegations:

- 9.1 *Vince Molinaro will speak regarding Tender Award – Fairview Street Bus Bays – Teen Tour Way Shelters (CW-26-20)*
- 9.2 *CAO Hassaan Basit, CAO & Leah Smith, Manager, Environmental Planning representing Conservation Halton will speak regarding Supplementary information and directions regarding subdivision agreement extension for Garden Trails Subdivision (PL-48-20)*
- 9.3 *Kristina Didiano and Dr. Shih representing (Emshih Developments Inc.), and Ian Shaw of Soil-MAt Engineers will speak regarding Supplementary information and directions regarding subdivision agreement extension for Garden Trails Subdivision (PL-48-20)*

10. Recommendations from Standing Committees:

- 10.3 Corporate Services, Strategy, Risk & Accountability meeting of August 13, 2020
 - i. *COVID-19 emergency response verbal update (CSSRA-07-20) (SD-15-20)*

Item 16.2 provides supplemental information with respect to this matter.

Receive and file the August 13, 2020 presentation providing an update on the COVID-19 emergency response; and

Direct the City Manager to report back to the September 17,

2020 Corporate Services, Strategy, Risk and Accountability Committee regarding the status of the state of emergency declaration due to COVID-19 including but not limited to the criteria adopted from the Province; and

Direct the Executive Director of Environment, Infrastructure and Community Services to report back to the August 24, 2020 Council meeting with costs and options to complete weed clearing in medians.

16. Motion to Receive and File Information Items:

- | | | |
|------|---|---------|
| 16.4 | <i>Delegation notes from Vince Molinaro regarding Tender Award – Fairview Street Bus Bays – Teen Tour Way Shelters (CW-26-20)</i> | 1 - 2 |
| 16.5 | <i>Delegation notes from Conservation Halton regarding Supplementary information and directions regarding subdivision agreement extension for Garden Trails Subdivision (PL-48-20)</i> | 3 - 4 |
| 16.6 | <i>Correspondence from from Nancy Smith representing Turkstra Mazza, regarding Supplementary information and directions regarding subdivision agreement extension for Garden Trails Subdivision (PL-48-20)</i> | 5 - 16 |
| 16.7 | <i>Delegation notes from Kristina Didiano representing (Emshih Developments Inc.) regarding regarding Supplementary information and directions regarding subdivision agreement extension for Garden Trails Subdivision (PL-48-20)</i> | 17 - 18 |
| 16.8 | <i>Delegation notes from Dr. Shih representing Emshih Developments regarding Supplementary information and directions regarding subdivision agreement extension for Garden Trails Subdivision (PL-48-20)</i> | 19 - 19 |
| 16.9 | <i>Correspondence from Kristina Didiano representing Emshih Developments Inc. regarding Supplementary information and directions regarding subdivision agreement extension for Garden Trails Subdivision (PL-48-20)</i> | 20 - 25 |

To: [Galbraith, Kelvin](#); [Thorp, Tara](#); [Nisan, Rory](#); [Stolte, Shawna](#); [Sharman, Paul](#); [Fitzpatrick, Rosemary](#); [Bentivegna, Angelo](#); [Laufman, Kathi](#); [Pampalon, Nancy](#); [Wainman, Sheri](#)
Cc: [Vince Molinaro](#); [Sam DiSanto](#); [Rob Molinaro](#); [Barry Graziani](#)
Attachments: [1655.18.x.Aug.17.2020.construction.management.plan.pdf](#)
[Fwd Paradigm Phase 2 - Construction Management Plan.msg](#)

Vince Molinaro, Sam DiSanto and myself would like the opportunity of speaking with you for 15-20 minutes regarding their Paradigm project before the Council meeting next Monday at 1 pm. We would be available for a call later this afternoon, any time Thursday morning, or Friday at 10:30 or later.

Our concern is the recommendation to proceed with the construction of the transit shelter in front of the Paradigm site as brought forward to the Committee last week. Since the Committee meeting, the Molinaros have compromised their position and have agreed to support the construction of the transit shelter now and have offered to remove the shelter during the construction program for Paradigm and replace it when the construction program has been completed.

Unfortunately, after review by staff, this position was rejected as noted in the correspondence from Mr. Capone. As a result, the Molinaros are now forced into a position of having to oppose the construction of the transit shelter. They are concerned that once constructed, it will become a significant impediment to their construction program and result in potential safety concerns for pedestrians.

Mr. Vince Molinaro will be appearing as a delegation Monday, recommending that the transit shelter not be constructed.

We look forward to the opportunity of reviewing this with you.

Sincerely,

Ed Fothergill
Fothergill Planning & Development Inc.
62 Daffodil Cres., Ancaster, ON L9K 1E1
T: 905-577-1077 E: edf@nas.net

**GRAZIANI
+
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ARCHITECTS INC.**

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LAM ICS
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Residential Development

PARADIGM 2

2089-2095 FAIRVIEW STREET

Series

Project Architect:	B. Brezoni
Assistant Designer:	S. Salari
Drawn By:	S. Salari
Checked By:	D. Brose
Plot Date:	Aug. 17, 2020
Job #:	1655.10

CONSTRUCTION MANAGEMENT PLAN

BRIEFING NOTE

GARDEN TRAILS SUBDIVISION (24T-99005) – REQUEST TO EXTEND DRAFT APPROVAL

KEY ISSUE

- Additional geotechnical information (slope stability assessment) is required for Conservation Halton (CH) to confirm that no new development (including new residential lots or dwellings) is proposed within hazardous lands and that the proposal can meet the Natural Hazard policies of the Provincial Policy Statement (PPS), as well as and CH's regulatory policies.

BACKGROUND

- The Garden Trails Phase II draft plan of subdivision (24T-99005) is for 20 single detached lots on a public road extension of Genista Drive. An open space buffer (Block 22) runs along the south side of the property adjacent to Grindstone Creek, and open space Blocks 152, 155 and 156 are located on the west and east sides of the proposed development.
- The subject lands are approximately 3.8 hectares in size and are located just south of Highway 403 and the CNR tracks, between Plains Road West and Unsworth Avenue. This constitutes the second phase of the Garden Trail subdivision, which initially received draft plan approval on November 2, 2001. Redline revisions to the plan and conditions were approved by the OMB on December 4, 2001.
- The developer has made several requests for draft plan approval extension over the past eighteen years, which have been granted by the City. The most recent request for a further three year extension was made in November 2019. Given the length of time that has passed since the original OMB decision, some of the conditions of draft approval are now out of date. The City granted a temporary extension of draft plan approval until June 30, 2020 to allow for a comprehensive assessment of the existing subdivision conditions and deficiencies, as well as to provide an opportunity for Burlington Council to once again consider the request for further extension on draft approval. CH provided the City with a list of deficiencies on March 24, 2020 (see below under 'Subdivision Application').
- On June 29, 2020, City, Region and CH staff met with the applicant to receive an update on the work completed to date. All agencies met with the applicant again on July 15, 2020, to outline a list of requirements for a complete application, whether it proceeds as an extension of the Garden Trails subdivision application (24T-99005) or as a new application. City Council will decide whether to grant extension of the existing application on August 24, 2020.
- CH's involvement in this site is from three key perspectives:
 - i) *Regulatory Agency* – Section 28 (1) of the *Conservation Authorities Act* allows conservation authorities to make regulations in areas that are within their jurisdiction to prohibit development in hazardous lands. CH's regulation is Ontario Regulation 162/06. The purpose of the regulation is to protect life and property from natural hazards such as flooding and erosion.
 - ii) *Delegated 'Provincial Interest' in Plan Review* – Provincial delegated responsibility for the natural hazard policies of the PPS (Sections 3.1.1-3.1.7 inclusive).
 - iii) *Technical advisor* – CH provides peer review advice to the City/Region on matters related to natural heritage and stormwater management, based on CH's Memorandum of Understanding with Halton Region.

Ontario Regulation 162/06 / CH Permit Application

- Pursuant to Ontario 162/06, Conservation Halton (CH) regulates all watercourses, valleylands, wetlands, Lake Ontario and Hamilton Harbour shoreline and hazardous lands, as well as lands adjacent to these features. The Garden Trails Phase II Subdivision lands are adjacent to a tributary of Grindstone Creek and contain or are adjacent to the flooding and erosion hazards associated with that watercourse. CH regulates a distance of 15 metres from the greater of the limit of the flooding or erosion hazards for this particular site. Permission is required from CH prior to undertaking any development within CH's regulated area and development must meet CH's *Policies and Guidelines for the Administration of Ontario Regulation 162/06 and Land Use Planning Policy Document* (last amended February 25, 2016) (<https://conservationhalton.ca/policies-and-guidelines>).
- CH received an incomplete permit application for works proposed in CH's regulated area (e.g., channel rehabilitation, stormwater management outfall and retaining wall) in 2017. A timeline of events is outlined below.
 - April 5, 2017 – CH issued letter on 1st submission; no fees submitted; CH noted that fees and complete application required to review subsequent submissions.
 - August 15, 2019 – CH received incomplete slope stability submission; no comments issued, as no fees had been received.
 - April 27, 2020 – Additional information submitted; no fees submitted.
 - May 27, 2020 – Fees submitted.
 - June 24, 2020 – CH deemed the application complete and issued letter on 2nd submission; future submission(s) needed to address CH's outstanding comments.

Subdivision Application 24T-99005

CH provided the City with a list of deficiencies and requirements for the subdivision application on March 24, 2020 and July 15, 2020. Outlined below is a summary of the key deficiencies:

- **Slope Stability Assessment:** CH has reviewed prior submissions of this document. A consolidated report that determines the erosion hazard limits for the valley feature under existing and proposed conditions, and that integrates the physical top of bank as staked by CH staff on August 4, 2020, is required. Until this information is provided, CH cannot confirm that development (including new residential lots or dwellings) is not proposed within hazardous lands or that the proposal meets Provincial Policy.
- **Grading and Stabilization plans** are needed to address erosion and slope stability issues along the valley and stormwater (SWM) pond.
- **Fluvial Geomorphic Assessment** is needed to inform erosion allowances, restoration measures and management of SWM facility's outfall.
- **Functional Servicing and Stormwater Management (SWM) Report** should be updated in accordance with current standards and guidelines considering the proposed development form. It must be demonstrated that the SWM pond will not impact slope stability or exacerbate existing erosion concerns.
- **Environmental Impact Assessment (EIA)** is needed to demonstrate no negative impacts on the natural heritage system (NHS) and to confirm development setbacks. Agencies are currently reviewing a Terms of Reference for this study.
- **Updated or new Tree Inventory and Preservation Plan; Landscape and Restoration Plans; Engineering Drawing Set (Grading, Servicing, ESC, etc.); and Topographic Survey.**
- **Planning (Subdivision) Fees:** CH has no record of receiving fees for prior review of this subdivision. Additional review fees are required and would be similar to that of a new application.

Nancy Smith

15 Bold Street

Hamilton Ontario Canada L8P 1T3

Receptionist 905 529 3476 (905 LAW-FIRM)

Facsimile 905 529 3663

nsmith@tmalaw.ca

VIA EMAIL

August 21, 2020

Mayor Meed-Ward & Members of Council
City of Burlington
426 Brant Street
Burlington ON L7R 2G2

Dear Mayor Meed-Ward and Members of Council

RE: CORRECTION of MISINFORMATION

Community Planning, Regulations & Mobility Committee Meeting – August 11, 2020

Staff Report No. PL-48-20 Supplementary information and directions regarding subdivision agreement extension for Garden Trails Subdivision (Agenda Item No. XX)

We represent Garden Trail Developments Limited ("**Garden Trail**"). On August 11, 2020, the Community Planning, Regulations & Mobility Committee ("**Committee**") meeting received Staff Report No. PL-48-20 -- Supplementary information and directions regarding subdivision agreement extension for Garden Trails Subdivision ("**Staff Report**"). The Staff Report recommendation was to "refuse the request to extend Draft Plan Approval for the Garden Trails subdivision (24T099005/B) at Genista Drive, as recommended in community planning department report PL-31-20. Committee approved the recommendation with a 4-3 vote ("**Refusal to Extend**").

Committee heard from the Applicant's representative and a Conservation Halton ("**CH**") employee. The CH employee was not on the delegation list. In response to the Clerk's enquiries, she advised that she was asked that morning by the Mayor to speak to the Committee about the application history. Committee waived the delegation rules and heard from the CH employee.

Sound municipal decision-making must be fuelled by facts. I write to correct the record of misinformation shared at the Committee meeting.

NANCY SMITH PROFESSIONAL CORPORATION
TURKSTRA MAZZA ASSOCIATES, LAWYERS

1. Technical Submissions Since 2001

In speaking to the application's history, the CH employee told the Committee that Garden Trail had made no technical submissions since 2001 except in 2017 and 2020. The CH employee was mistaken.

Attached please find correspondence dated August 20, 2020 from Soil-Mat Engineers & Consultants Ltd ("Soil-Mat"). Soil Mat outlines the application's history and its dealings with CH since its retainer in 2010:

- **2010: Meeting with CH staff, City staff and design consultants resulting in an outline of the work required to move forward**
- **2010 – 2014: Multiple rounds of fieldwork and studies including site meetings with CH staff**
- **October 10, 2014: Geotechnical Report**
- **November 2014 – October 2016: ongoing consultation**
- **October 26, 2015: Geotechnical Report**
- **2017: ongoing consultation including meetings with CH staff and receiving formal CH comments (April 5, 2017 and December 8, 2017)**
- **2019 - 2020: formal responses to CH comments by way of various Addendums**

Most recently, Soil Mat states:

More recently CH staff provided updated comments in a letter dated June 24, 2020. A number of conference call/virtual meetings have been held to discuss these comments and how to best address them, along with a site visit review with CH staff on August 4, 2020. A primary item in these most recent comments from CH was that an updated geotechnical report be provided. Subsequent to these discussions and site meeting, our office has committed to CH staff to undertake to prepare a current consolidated geotechnical report. This process is underway with the formal report anticipated to be issued in the next couple weeks. [underlining added]

2. Legal Mechanism for Fees to Reflect Staff Time and Resources on a Specific File

A Committee Member told Committee that no mechanism exists for the City to impose fees to reflect staff time and resources on a specific file. The Committee Member was mistaken.

Attached please find By-law 52-2019 – a By-Law to Impose Rates and Fees. Section 5 states:

The fees and charges imposed by the City, as outlined in Schedule "A" to this bylaw may be increased, decreased or waived completely by the Director to whose department the fee or charge relates, subject to any approved corporate policy.

NANCY SMITH PROFESSIONAL CORPORATION
TURKSTRA MAZZA ASSOCIATES, LAWYERS

Section 6 states:

The fees and charges imposed by the City as outlined in Schedule "A" to this bylaw may be amended by Council by way of a motion to reconsider.

3. An Extension is the Most Efficient Use of City Resources

The project is draft plan approved under the *Planning Act*. Extending this draft plan approval and requiring a Resubmission is the most efficient use of City resources. Over the past 2-month period, consultation with the Region, the City and CH has resulted in a list of Resubmission requirements. An extension will allow Garden Trail to complete the following outstanding matters:

- **CH permit application approval for shoreline/creek rehabilitation, establishment of long-term stable top of slope and delineation of developable land**
- **Complete a scoped EIS and any additional updates to previously completed reports/studies as outlined in the Staff Report**
- **Satisfy all updated subdivision and draft plan approval conditions**

Contrast the City resources to implement a Resubmission to requiring a new application. Refusing to extend the draft plan approval will engage a full *Planning Act* process and all the municipal resources required of staff and Council to implement that process: pre-consultation, pre-submission, circulation, statutory public meeting and so on. This is not a reasonable process nor is it an efficient use of City resources to move forward with an approved draft plan.

The foregoing corrects the record at Committee. I respectfully request that you reflect on these corrections in deciding whether to accept the Committee's Refusal to Extend recommendation.

Yours truly,



Nancy Smith
ns/l

NANCY SMITH PROFESSIONAL CORPORATION
TURKSTRA MAZZA ASSOCIATES, LAWYERS

SOIL-MAT ENGINEERS & CONSULTANTS LTD.

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Milton: PO Box 40012 Derry Heights PO L9T 7W4 T: 800.243.1922



PROJECT No.: SM 103796-G

August 20 2020

EMSHIH DEVELOPMENTS INC.
895 Brant Street, Suite 7
Burlington, Ontario
L7R 2J6

Attention: Ms. Kristina Didiano, MES, BA

**GEOTECHNICAL COMMENTS
PROPOSED GARDEN TRAILS – PHASE II
GENISTA DRIVE, BURLINGTON, ONTARIO**

Dear Ms. Didiano,

Further to our recent correspondence and discussions, and your request, I take this opportunity to summarise the involvement of SOIL-MAT ENGINEERS & CONSULTANTS LTD. providing geotechnical assessment and consultations for the above noted project.

Soil-Mat Engineers was engaged on the project in 2010 to undertake geotechnical investigations on the subject site, specifically focusing on slope stability assessment. The purpose of this work has been to undertake:

- Detailed evaluation of the subsurface soil and bedrock conditions via the advancement of several boreholes across the site.
- Assessment, measurement and analysis of the existing slopes to Grindstone Creek, in order to establish the stability and factor of safety of the slopes, and the location of the long-term top of stable slope.
- Engage in discussion and consultation with the design team, Conservation Halton [CH], Halton Region and City of Burlington to assist in establishing appropriate engineering solutions to support permit approval for the development.

The start of our involvement in 2010 began with a meeting in 2010 at CH offices involving representatives of the design consultants, CH and City of Burlington staff. This discussion established an outline of the plan and approach going forward, in particular with respect to the necessary geotechnical investigation work required. This work was undertaken in multiple rounds of fieldwork and studies, along with site meetings with CH staff.

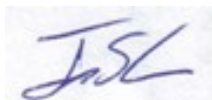
The summation of our site investigations and reporting was presented on our Geotechnical Investigation report, dated October 10, 2014. This report established the relative stability of the slopes, along with the location of the long-term top of stable slope. We had subsequently been engaged in discussion and consultation with respect to the slope stability requirements to achieve the lot grades, as well as the stability of the slope adjacent to the existing SWM pond areas. The results of this further consultation were presented in our report dated October 26, 2015. Additional consultations were undertaken in 2017, including meeting with CH and City staff, along with formal comments received from CH in two separate letters of April 5, 2017 and December 8, 2017. In 2019 our office undertook to prepare formal responses to the various relevant CH comments, with responses provided in a number of addendums to our original geotechnical report issued in late 2019 and early 2020.

More recently CH staff provided updated comments in a letter dated June 24, 2020. A number of conference call/virtual meetings have been held to discuss these comments and how to best address them, along with a site visit review with CH staff on August 4, 2020. A primary item in these most recent comments from CH was that an updated geotechnical report be provided. Subsequent to these discussions and site meeting, our office has committed to CH staff to undertake to prepare a current consolidated geotechnical report. This process is underway with the formal report anticipated to be issued in the next couple weeks.

Our assessments and recommendations to date are intended to establish the stability of the existing slopes, and provide appropriate solutions to maintain or improve the stability of the subject slope as part of the proposed development plan. This is a complex file, with a number of technical challenges, requiring ongoing discussions with CH staff, however clear and appropriate solutions are available and have been proposed to establish a stable and safe development plan, from a geotechnical point of view. We look forward to the completion of the process with CH staff to resolve any further technical comments or concerns, to achieve an approved development plan.

We trust that this brief letter is sufficient at present. Should there be any questions or additional information is required, please do not hesitate to contact the undersigned.

Yours very truly,
SOIL-MAT ENGINEERS & CONSULTANTS LTD.

A handwritten signature in blue ink, appearing to read "I. Shaw".

Ian Shaw, P. Eng., QP_{ESA}
Senior Engineer

Distribution: Emshih Developments [pdf by email]

The Corporation of the City of Burlington

City of Burlington By-law 52-2019

A By-law to impose rates and fees

F-33-19

Whereas section 391 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality may pass by-laws imposing fees or charges on any class of persons; and

Whereas section 69 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, provides that Council may prescribe a tariff of fees for the processing of applications made in respect of planning matters;

Now therefore the Council of the Corporation of the City of Burlington hereby enacts as follows:

1. This by-law shall be known and cited as the “Rates and Fees By-Law”.
2. The Council hereby establishes the rates and fees as set out in Schedule “A” to this by-law for The Corporation of the City of Burlington.
3. The rates and fees as set forth in Schedule “A” shall come into effect January 1st, 2020 or as specified within the schedule.
4. The fees and charges will be subject to Harmonized Sales Tax (HST) and Retail Sales Tax (RST), where applicable.
5. The fees and charges imposed by the City, as outlined in Schedule “A” to this by-law may be increased, decreased or waived completely by the Director to whose department the fee or charge relates, subject to any approved corporate policy.
6. The fees and charges imposed by the City as outlined in Schedule “A” to this by-law may be amended by Council by way of a motion to reconsider.
7. The annual increases to fees and charges imposed by the City, as outlined in Schedule “A” to this by-law, may be rounded to result in whole dollar values.
8. Interest for unpaid accounts owing for fees and charges will be charged in accordance with any approved corporate policy.

9. If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in full force and effect.
10. Should this by-law conflict with any other by-law or resolution of Council, or any staff report approved by Council, in relation to fees and charges imposed under the *Municipal Act* and *Planning Act* or any other act, except the *Building Code Act*, 1992, S.O. 1992, c. 23, as amended, this by-law shall take precedence, unless specifically stated to the contrary.
11. That by-law 51-2018 is hereby repealed in its entirety.
12. This by-law shall come into effect January 1st, 2020.

Enacted and passed this 23rd day of September 2019.

Mayor Marianne Meed Ward _____

Deputy City Clerk Danielle Manton _____



GARDEN TRAIL DRAFT PLAN OF SUBDIVISION – GENISTA DRIVE APPROVAL EXTENSION REQUEST

Item 10.3 (f)
Regular Meeting of Council
August 24, 2020



Technical Submissions Since 2001

- CH is incorrect to state that no work has been completed since 2001
- Ongoing process of a technical nature
 - 2010: Meeting with CH staff, City staff and design consultants resulting in an outline of the work required to move forward
 - 2010 – 2014: Multiple rounds of fieldwork and studies including site meetings with CH staff
 - October 10, 2014: Geotechnical Report
 - November 2014 – October 2016: ongoing consultation
 - October 26, 2015: Geotechnical Report
 - 2017: ongoing consultation including meetings with CH staff and receiving formal CH comments (April 5, 2017 and December 8, 2017)
 - 2019 - 2020: formal responses to CH comments by way of various Addendum

Legal Mechanism to Charge Fees

- The City can impose additional fees at its discretion to reflect staff time and resources
- By-Law 52-2019: Bylaw to Impose Rates and Fees
 - Section 5 states:

“The fees and charges imposed by the City, as outlined in Schedule “A” to this by-law may be increased, decreased or waived completely by the Director to whose department the fee or charge relates, subject to any approved corporate policy”
 - Section 6 states:

“The fees and charges imposed by the City as outlined in Schedule “A” to this by-law may be amended by Council by way of a motion to reconsider”

Extension is Most Efficient Use of Staff Resources

- A new subdivision application would engage a full *Planning Act* process:
 - Pre-consultation – circulation of plan to get comments on what reports are needed -- Redundant
 - Pre-submission public meeting is required – No value added
 - Submission based on full Draft Plan requirements – No value added
 - Review to be deemed complete -- Redundant
 - Notice required to be sent – No value added
 - Notice sign required – No value added
 - Circulation is required as per S. 51 (17) of the Planning Act; plan and supporting materials will have to be sent to: -- The City, Region and CH are the key agencies to review resubmission materials for the revised draft plan
 - a. Region (including MNRF)
 - b. CH
 - c. All school boards
 - d. All utilities
 - e. Hydro One
 - f. OPG
 - g. All gas operators, natural gas, and oil and gas utility companies in Burlington
 - h. CN Rail
 - i. All telecommunication infrastructure providers
 - j. MMAH
 - k. MTO.
 - Public meeting required – No value added
 - Recommendation meeting to get Draft Approval and conditions – Redundant as updated conditions already received

Request for Extension

- GTD wants to continue working collaboratively with the City, CH and the Region to complete this site
- An extension will allow the following work to be completed:
 - Resolve CH matters of slope stability, stable top of slope and developable land area
 - Prepare a scoped EIA/EIS (at min. 6 months to complete)
 - Prepare additional updated studies per submission requirements
- GTD is requesting a motion from Council:
 - *To extend Draft Plan Approval for the Garden Trails Subdivision (24T099005/B) at 550 Genista Drive for a minimum of 1 year, to August 31, 2021*



EMSHIH DEVELOPMENTS INC.

895 Brant Street, Suite #7
Burlington, ON
L7R 2J6

Tel: (905) 639-9006
Fax: (905) 632-3337

Monday August 24, 2020

Via E-Mail

City of Burlington
426 Brant Street
Burlington ON L7R 2G2

RE: Delegation Notes from Kristina Didiano (Emshih Developments Inc.) regarding Supplementary information and directions regarding subdivision agreement extension for Garden Trails Subdivision (PL-48-20)

Dear Mayor Meed-Ward and members of Council,

I am here today along with Dr. Michael Shih of Emshih Developments and Ian Shaw of Soil-Mat Engineers with regard to Item **10.3(f) Garden Trail Subdivision Extension Request** on your agenda today.

As you are aware, our representative Dana Anderson of MHBC, and Dr. Michael Shih of Emshih Developments delegated at the August 11th Community Planning, Regulations & Mobility Committee meeting. Ms. Anderson presented an alternative approach which would allow the extension of draft plan approval to take place without the need of a new subdivision application. Our approach included a set of updated scoped studies to inform and address any remaining outstanding agency concerns and continue the progress that has been made over the past 2 months working with City, Region and Conservation Halton (CH) staff.

Emshih understand that the Committee voted in favour of staff's recommendation to refuse our request for extension. We believe that some information presented on August 11th was not entirely accurate, and as a result, we would like to take this time to address these facts. You have before you a written submission prepared by our legal counsel with an attached letter from Soil Mat Engineers outlining these key points as follows:

1. Conservation Halton was incorrect to state the no work has been completed on this file since 2001.
 - As summarized in the attached letter prepared by Soil-Mat, working with CH has been an ongoing process of a technical nature which commenced in 2010
 - These discussions have informed all the evolving reports and studies that have been completed to date, related to slope stability, stable top of slope and developable land area
2. Per By-Law 52-2019, the City can charge an increased fee for revisions to a draft plan approval, at its discretion, to reflect the staff resources required to complete its review of the requested resubmission materials.

- This is a unique circumstance in which we maintain the position that it would be appropriate for the City to do so
3. The process for a new application is much more extensive than is required in this case.
 - We continue to maintain the position that an extension of draft plan approval is the most efficient and effective way to the same outcome
 - Staff resources are already strained and an extension would make the best use of their time
 - Engaging in a full Planning Act process only adds additional requirements that are redundant and do not add any value to the ultimate outcome of this file
 4. Lastly, we want to work collaboratively with the City to complete the outstanding work related to this file.
 - If we are forced to submit a new subdivision application by way of refusal of our extension request, we will not pursue that path.

Emshih respectfully requests that Council reconsider the Committee recommendation carried on August 11th and grant a motion to extend our draft plan approval for a minimum 1-year extension.

This timeline would allow our team to resolve the outstanding CH matters, prepare an updated and scoped EIS, including additional updates provided by staff in the submission requirements and clear all outstanding draft plan and subdivision conditions.



EMSHIH DEVELOPMENTS INC.

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Tel: (905) 639-9006
Fax: (905) 632-3337

Monday August 24, 2020

Via E-Mail

City of Burlington
426 Brant Street
Burlington ON L7R 2G2

**RE: Delegation Notes from Dr. Michael Shih (Emshih Developments Inc.) regarding
Supplementary information and directions regarding subdivision agreement extension for
Garden Trails Subdivision (PL-48-20)**

Dear Mayor Meed-Ward and members of Council,

Basically, Garden Trail is a 200 lot subdivision, 90% of which has been completed and occupied and 10% to be finished, including the storm connection from Phase 1 to the permanent storm pond.

Development of a large subdivision is a long process and City's refusal to extend the application is counterproductive. We cannot and will not start a new application. This refusal will be the end of the road for us on this project.

Emshih has been doing developments in Burlington for over 40 years and has always had great relationship and cooperated with the City, and never had any major issues until recently.

The City and developers need to work together to build a better City and should not be working against each other. This is what I feel now.

In conclusion, Emshih just wanted to continue to finish the Garden Trail development as was originally intended and approved.



S. LLEWELLYN & ASSOCIATES LIMITED
CONSULTING ENGINEERS

July 9, 2020
File 19034

Region of Halton
1151 Bronte Road
Oakville, Ontario
L6M 3L1

Attention: Mr. A. Huycke, MCIP, RPP, CPT
Senior Planner, Community Planning

Dear Mr. Huycke:

**RE: GARDEN TRAILS PHASE 2 SUDIVISION
FILE 24T-99005/B
IN THE CITY OF BURLINGTON**

Further to your letter dated March 24, 2020 and our June 29, 2020 meeting in connection with the above noted project, we wish to confirm that we have reviewed the Functional Design Report dated November 1999, as prepared by Philips Planning & Engineering Limited for the Garden Trails Subdivision.

We confirm that the conclusions of the Functional Design Report still apply to the proposed Garden Trails Phase 2 Subdivision, with respect to storm and wastewater sewer servicing, stormwater management, and water servicing. The as-constructed volume of the existing stormwater management facility will have to be verified by our office prior to registration of the plan of subdivision.

If you have any questions, please do not hesitate to contact the undersigned.

Yours truly,

S. LLEWELLYN & ASSOCIATES LIMITED

S. Llewellyn, P.Eng.



EMSHIH DEVELOPMENTS INC.

895 Brant Street, Suite #7
Burlington, ON L7R 2J6

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Wednesday July 15, 2020

Via E-Mail

Conservation Halton
2596 Britannia Road W.
Burlington ON L7P 0G3

Attention: Emma DeFields, MES, MCIP, RPP

RE: Request for Extension of Draft Approval
File: 24T-99005/B
Garden Trail Phase 2 Subdivision
Block 154, Registered Plan 20M-795

Dear Ms. DeFields,

Thank you for meeting with Emshih Developments Inc., and our consulting team on June 29 and July 15, 2020 to discuss matters related to our draft approval request for extension for the above noted site. Concerns were raised with regard to the existing stormwater facility and outfall, as well as work related to the stable top of slope.

Stormwater Management & Outfall

Please accept this letter as confirmation that the existing “as-constructed” stormwater management facility, associated outfall and compensation works were approved and completed as part of the overall subdivision plan during the development of Phase 1. All works have been monitored, inspected and received final sign-off.

Attached, you find copies of permit approvals by Conservation Halton and the Ministry of Environment for the works in question, as well as a letter from our previous consultant verifying these approvals. Nonetheless, as noted by S. Llewellyn & Associates Ltd., the “as-constructed” storm facility will be reviewed to confirm it will continue to satisfy the stormwater management requirements for Phase 2 of the subject development.

Stable Top of Slope

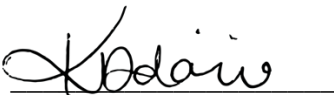
In preparation for our upcoming meeting on July 27, 2020 to discuss technical matters related to the stable top of slope, please note that the following reports and analysis have been completed and provided to CH for review to date:

- Grading Plans – October 2007, prepared by Philips Engineering
- Updated Phase 2 lot grading plans and revise slope evaluation – November 2008, prepared by Phillips Engineering

- Preliminary Geotechnical Investigations – December 2010 & December 2011, prepared by Soil-Mat
- Soil-Mat Letter to CH - Southern Limit of property (developable area) and stable slope established, June 21, 2013
- CH site visit with Soil-Mat re: slope and stabilization - November 27, 2013
- Geomorphic Assessment and Design – Sept 2014, prepared by Parish
- Geotechnical Investigation and Slope Stability Report - October 10, 2014, prepared by Soil-Mat
- Final Preliminary Design – Channel Rehabilitation at SWM Outfall and Hydraulic Model – October 30, 2015, prepared by Amec Foster-Wheeler
- Final Engineering Plans, Lot Grading, Slope Stabilization and CH Package – November 2, 2015, prepared by Amec Foster-Wheeler
- Geotechnical Investigation and Slope Stability Report (October 2014), prepared by Soil-Mat and recirculated to CH, September 2017
- Soil-Mat Supplemental Slope Stability Comments, August 2019
- Soil-Mat Updated Slope Stability Considerations, December 2019
- Propex Geosolutions report – December 2019
- Soil-Mat Supplemental Slope Stability Comments, February 2020
- TIPP & EMP – March 2020, prepared by Kuntz Forestry Consultants
- Fluvial Geomorphic Assessment – April 2020, prepared by Water's Edge Environmental
- Grading, Sediment & Erosion Control Plans, Creek Rehabilitation drawings – April 2020, prepared by S. Llewellyn & Associates Ltd

We trust that the information provided satisfies any outstanding concerns regarding stormwater management on the site and determination of stable top of slope as it relates to the Phase 2 subdivision. Should any additional information be required, please do not hesitate to contact the undersigned.

Kind Regards,
Garden Trail Developments Limited c/o Emshih Developments Inc.


Kristina Didiano, MES
Planner

Cc: Adam Huycke, Halton Region
Jeff McIsaac, City of Burlington
Kyle Plas, City of Burlington
Melissa Morgan, City of Burlington
Dana Anderson, MHBC
Scott Llewellyn, S. Llewellyn & Associates Ltd.
Ian Shaw, Soil-Mat Engineers
Dr. Michael Shih, Emshih Developments



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Monday August 24, 2020

Via E-Mail

City of Burlington
426 Brant Street
Burlington ON L7R 2G2

RE: Response to CH Deficiencies List regarding Supplementary information and directions regarding subdivision agreement extension for Garden Trails Subdivision (PL-48-20)

Dear Mayor Meed-Ward and members of Council,

Regarding Subdivision Application 24T-99005, please accept this letter as a response to the list of deficiencies provided to the City by Conservation Halton (CH) on March 24, 2020 and July 15, 2020. Outlined below is a summary of the key deficiencies and that status of each:

1. Slope Stability Assessment: CH has reviewed prior submissions of this document. A consolidated report that determines the erosion hazard limits for the valley feature under existing and proposed conditions, and that integrates the physical top of bank as staked by CH staff on August 4, 2020, is required. Until this information is provided, CH cannot confirm that development (including new residential lots or dwellings) is not proposed within hazardous lands or that the proposal meets Provincial Policy.
 - Soil-Mat Engineers previously prepared a comprehensive soil stability analysis report (dated October 10, 2014), which included a determination of the long-term top of stable slope. An addendum to this report was provided in 2015, and then additional addendums in 2017 in response to comments from CH staff.
 - More recent detailed response to CH comments were provided in 2019 and 2020, which were direct answers to specific questions raised. So, to be clear, the relevant detailed geotechnical slope stability assessment work has been done, and further refined since the start of our involvement in 2010. An updated consolidated report is reasonable to assist CH staff in their review, however this is not a function of lack of information or detailed study, it is a function of the evolution of the file over time and based on comments from CH staff.
 - The preparation of a consolidated geotechnical report is underway and will address matters related to the site walk undertaken on August 4, 2020.
 - Further, Soil-Mat has had recent discussions with CH staff, including during a recent site visit on August 4, 2020. These have been aimed at resolving the technical issues of the file, which are more complicated than most typical such sites. This is primarily due to the fact the property is a decommissioned former brick making quarry, and so the slope in question is not natural, but rather comprised of 'man-made' soil fill.
 - During our site visit with CH staff on August 4 we engaged in positive technical discussion with CH staff, and were advised that they would conduct further internal

- discussion and advise us on their position on some of the technical points of discussion. We have not yet received specific follow up to this.
- A further technical note, with respect to the reference of the staked top of bank that was recently done by CH staff during August 4 site visit. With due respect to CH staff, this is a relatively arbitrary staking of a physical top of slope location done by eye while on site. It is a useful reference, however, with respect, from a geotechnical engineering point of view it would not be considered as the governing or controlling reference. That would be the established top of stable slope based on detailed geotechnical assessment, which again was initially presented in our report of October 2014.
 - We anticipate that a formal report will be issued in the next few weeks.
2. Grading and Stabilization plans are needed to address erosion and slope stability issues along the valley and stormwater (SWM) pond.
 - Grading and Stabilization plans were prepared by S. Llewellyn & Associates Ltd. And Soil-Mat Engineers, submitted to CH as part of the complete permit application circulated on April 24, 2020.
 - Comments from CH were received on June 24, 2020, and subsequent meetings held on July 15, 2020, July 27, 2020 and August 4, 2020.
 - Technical comments and recommendations to address these items have been presented to CH staff, including appropriate slope stabilization measures where warranted. Soil-Mat been engaged in discussion with CH staff to establish the most appropriate approach that would be acceptable to CH staff, and have provided additional technical comment and material to CH staff during this process. Detail of the grading plans has been revised, however is tied to the technical discussion regarding the slope stability, so there is somewhat of a 'chicken and egg' scenario in this case.
 - A resubmission addressing comments received will be undertaken.
 3. Fluvial Geomorphic Assessment is needed to inform erosion allowances, restoration measures and management of SWM facility's outfall.
 - A fluvial geomorphic assessment was prepared by Water's Edge Environmental Solution, dated April 17, 2020, and submitted to CH as part of the permit application.
 - Comments from CH were received on June 24, 2020 and will be addressed in the resubmissions to be undertaken.
 4. Functional Servicing and Stormwater Management (SWM) Report should be updated in accordance with current standards and guidelines considering the proposed development form. It must be demonstrated that the SWM pond will not impact slope stability or exacerbate existing erosion concerns.
 - A Functional Servicing Report (FSR) was prepared for the original subdivision, addressing both Phase 1 and Phase 2 of the plan.
 - In the attached letter prepared by S. Llewellyn & Associates Ltd., dated July 9, 2020, confirms that the existing FSR still applies to the proposed Phase 2 subdivision.
 - As such, volumes of the as-constructed storm facility will be verified prior to registration.
 5. Environmental Impact Assessment (EIA) is needed to demonstrate no negative impacts on the natural heritage system (NHS) and to confirm development setbacks. Agencies are currently reviewing a Terms of Reference for this study.

- A scoped Terms of Reference (TOR) was circulated to agencies on August 5, 2020 and is currently under review.
 - If the TOR is accepted, Emshih expects that an updated EIA can be prepared in approximately 6 months.
 - If the scope of work for the EIA requires additional seasonal studies, the completion of the formal report could take upwards of a year.
6. Updated or new Tree Inventory and Preservation Plan; Landscape and Restoration Plans; Engineering Drawing Set (Grading, Servicing, ESC, etc.); and Topographic Survey.
- A Tree Inventory Preservation Plan and Edge Management Plan, dated March 20, 2020, was prepared by Kuntz Forestry Consultants Inc. and circulated to CH as part of the permit application.
 - Grading and Sediment & Erosion Control plans were prepared by S. Llewellyn & Associates Ltd. And circulated to CH as part of the permit application.
 - Comments from CH were received on June 24, 2020 and will be addressed in the resubmission to be undertaken.
 - Updated Topographic Survey prepared by MMP Surveyors during Fall and Winter 2019, Long-term Stable Top of Slope was staked and surveyed for the permit application.
7. Planning (Subdivision) Fees: CH has no record of receiving fees for prior review of this subdivision. Additional review fees are required and would be similar to that of a new application.
- Emshih Developments Inc. recently paid to CH fees in the amount of \$21,285.00 for the ongoing technical review of the permit application submitted on April 24, 2020.
 - Additional planning fees have only recently been made know through the extension request process.
 - As noted in earlier presentations, Emshih will pay the appropriate fees to reflect staff time and resources for the review of resubmission materials if an extension is granted.
 - CH has the discretion to charge Peer Review fees and Additional fees (at an hourly rate) in addition to Plan Review fees.

Emshih Developments Inc. is committed to completing the Garden Trail Phase 2 subdivision through the draft approval extension request. As outlined above, most of the deficiencies noted by CH have been completed and reviewed by CH technical staff and will be circulated to CH planning staff upon approval of the extension request. We anticipate that the outstanding matters with CH will be resolved prior to the end of the year. As such, we trust that the summary we have provided shall serve as additional information for Council's review and consideration regarding our extension request.

Regards,

Kristina Didiano, Emshih Developments Inc.

Attachments:

- A – Information Package to CH re: Stormwater Management & Stable Top of Slope
- B – Letter from S. Llewellyn & Associates Ltd re: Functional Servicing Report