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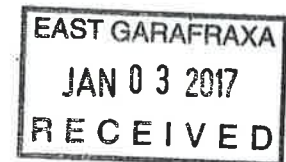
**BLG**  
Borden Ladner Gervais

December 29, 2016

**Delivered by Courier**

Susan M. Stone  
CAO/ Clerk-Treasurer  
Township of East Garafraxa  
374028 6<sup>th</sup> Line  
Amaranth, ON L9W 0M6

Mark Christie  
Ministry of Municipal Affairs and Housing  
Municipal Services Office  
Central Ontario  
777 Bay Street, 13<sup>th</sup> Floor  
Toronto, ON M5G 2E5



Dear Ms. Stone,

**Re: Notices of Appeal of a Zoning By-law Amendment Application; and  
Application for Draft Plan of Subdivision  
Marsville Heritage Estate Development  
East Half Lot 6, Concession 13  
Parts 2, 3 & 4, Reference Plan 7R-1800  
Township of East Garafraxa, Community of Marsville  
Zoning By-law Amendment Application Municipal File No.: 2011/32  
Subdivision File No.: 22T-141585**

We represent Marsville Heritage Estates Development with respect to the above noted application to permit 46 single detached residential units. The proposed development is to be located on the property with legal description East Half of Lot 6, Concession 13, Township of East Garafraxa, County of Dufferin (the "Subject Property"). The Subject Property is currently vacant and rectangular in shape and consists of an area of approximately 9.89 hectares (24.45 acres).

Our client submitted an application for a Zoning By-law Amendment ("Rezoning") on or around October 10, 2014 (Town File no. 2011/32). An updated application including additional materials dated October 26, 2014 and received by the Township of East Garafraxa (the "Township") on October 29, 2014. The initial Draft Plan of Subdivision application was submitted to the Ministry of Municipal Affairs and Housing ("MMAH") on or around February 25, 2014 (Subdivision File No.: 22T-141585). A revised subdivision application and revised draft plan were submitted on December 8, 2014, along with additional information on December 17, 2014. The Rezoning application was deemed complete on November 18, 2014 and the Draft Plan of Subdivision application was deemed complete on December 22, 2014.

More than 180 days have passed since the Zoning By-law Amendment application and application for Draft Plan of Subdivision (the “Applications”) were deemed complete and the Township and MMAH have failed to make a decision in respect of the Applications. Accordingly, please accept this letter as our client’s Notice of Appeal, pursuant to subsections 34(11) and 51(34) of the *Planning Act* in respect of Council’s and MMAH’s failure to make a decision on the Applications within the prescribed timeframe set out in the *Planning Act*.

### **Background and the Applications**

Marsville Heritage Estates Development owns lands currently vacant and used for agricultural purposes. The lands to the north, east, and west are also agricultural. To the south and southeast are existing low density residential uses within the Marsville community area. A few larger residential lots also abut the south side of the Subject Property and several general commercial properties existing to the southeast, and centered at the intersection of County Road 3 and 13<sup>th</sup> Line. The Subject Property is rectangular in shape and consists of an area of approximately 9.89 hectares (24.45 acres).

In the Township of East Garafraxa Official Plan (“OP”), the Subject Property is designated Community Residential. A mix of residential, commercial, open space, environmental protection and small scale institutional uses are encouraged within the *Community* boundaries. Specifically, the *Community Residential* designation permits the following:

- a) Single-detached residential dwellings;
- b) Home occupations; and
- c) Public open space.

The proposed single detached residential uses are permitted.

The Zoning By-law amendment application is to amend the Township of East Garafraxa Township Zoning By-law 60-2004 to rezone the Subject Property to Hamlet Residential with Special Provision Zone to facilitate the proposed Draft Plan of Subdivision with minimum lot area of twelve hundred (1200) square meters and a minimum lot frontage of twenty (20) meters. We recognize that this lot frontage and area are not consistent with what is provided for in the Township zoning By-Law for the “HR (Hamlet Residential)” zone; however, this is consistent with what exists on surrounding residential lands in Marsville i.e. Thunderbird Phase 1 development and represents good planning.

The Draft Plan of Subdivision proposes a residential subdivision consisting of 46 single family dwellings on 9.71 hectares of developable lands. Essentially, this equates to 4.73 units per gross residential hectare and 5.81 units per net residential hectares (excluding roads and undevelopable open channel lands). The intent is to provide an extension of the existing subdivision known as Thunderbird Phase One Subdivision.

As outlined in our client’s Planning Justification Report dated August 22, 2016, by IBI, the proposed subdivision development is compatible with the surrounding land uses as the use is identical and the lot sizes are very similar to the adjacent existing subdivision to the south. Other technical reports submitted with the Applications support the proposal. The Subject Property is

also within the community boundary which is to accommodate 80% of the expected growth. The development avoids strip development as the Subject Property is behind existing residential uses along County Road 3 and maintains the rural character of the surrounding area by retaining low density uses and clustering the lots to maintain the agricultural viewshed. The proposal conforms to the policies of the OP.

A pre-consultation meeting was held on September 29, 2011. Additional meetings were held on July 22, 2015, August 31, 2016 and November 17, 2016.

Our client has been highly cooperative with the Township to date and has paid \$23,000 in fees for Town's lawyer, engineers and planner. The Township has now demanded payment of \$38,800.00, ostensibly for peer review but the fee also purports to include legal fees. Needless to say, this is an exceptionally high fee by any standard, and my client will dispute these fees.

### **Grounds For Appeal**

Our client appeals to the Ontario Municipal Board for the following reasons:

1. Council for the Township and MMAH have failed to make a decision in respect of the Applications within the prescribed timeframe set out in the *Planning Act*.
2. The Applications for the proposed development constitutes good land use planning and is appropriately supported by a planning justification report and other technical information submitted by our client to the Township and MMAH.
3. The Applications for the proposed development are consistent with the policies of the Provincial Policy Statement, 2014 as concluded by our client's land use planner in its Planning Justification Report dated August 22, 2016, by IBI (the "Justification Report").
4. Similarly, the Applications for the proposed development are consistent with the policies of the Growth Plan for the Greater Golden Horseshoe as concluded in the Justification Report.
5. The Applications or the proposed development conform to the policies of Township of East Garafraxa Official Plan policies as concluded in the Justification Report and discussed earlier in this letter. The Justification Report states that the current Official Plan designation supports the intent of the proposed Draft Plan of Subdivision and therefore no amendment is required.
6. The Justification Report further concludes that the proposed development, with appropriate conditions of draft approval represents good planning, is in conformity with Provincial and Municipal policies and is in the public interest.
7. Other Supporting technical reports have been submitted with the Applications.
  - a. The Archaeological Assessment states that a Stage 2 property assessment be conducted. The Stage 2 assessment, which consisted of a systematic pedestrian survey, did not result in the identification of any archaeological resources. The

report recommends that no further archaeological assessment of the property required.

- b. The Hydrogeological Assessment (May 2014) concludes that the Subject Property is located in an area that is not considered to be hydrogeologically sensitive. The study identified that individual sewage systems for the 46 lot subdivision will not impact the ground water system. The results of the assessment indicates that there will be no impacts to the water supply aquifer. The Town's engineers expressed concerns with existing and proposed higher nitrate loadings based on number of lots. Further groundwater monitoring and hydrogeological investigations were carried out confirming no impacts to municipal well due to the presence of 60m of thick low permeability overburden and underlying bedrock aquifer. The investigations also confirmed no impact to ground water or surrounding lands due to a shallow confined clayey silt layer (approx. 9m) and discontinuous and isolated silty pockets near surface. Existing higher nitrate is from agriculture as the subject land have been extensively used for agricultural purposes over the years. Further investigations and supporting documentations were provided in memos to the Town's engineers, dated April 28, 2016, July 28, 2016 and September 19, 2016. In addition the client will install tertiary treatment systems within each proposed lot of the new subdivision.
  - c. The Geotechnical Investigation had no issues with the proposed development.
  - d. The Transportation Impact Study confirmed that the traffic generated from the proposed develop can be accommodated and no future intersection improvements are required with existing land configuration.
8. Such further and other grounds as our client may advise the Board and the Board may permit.

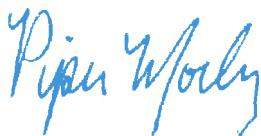
### **Conclusion**

Our client remains committed to working with the Township and MMAH to secure the approval of the Applications.

We enclose two completed Appellant Form A1 for the Rezoning and Draft Plan of Subdivision appeal. As well, two separate \$300.00 cheques made payable to the Minister of Finance for the Board filing fees of the two appeals. We kindly request that the two appeal matters be consolidated for the purposes of a hearing.

Should you have any questions regarding the filing of these appeals, do not hesitate to contact the undersigned.

Sincerely,  
BORDEN LADNER GERVAIS LLP



Piper Morley

Enclosures