

MEMORANDUM

DATE: June 22, 2015
TO: Mayor and Members of Council
FROM: Catherine M. Conrad, City Solicitor
SUBJECT: 1820266 ONTARIO INC. (TIMES GROUP INC.)
4002/4022 HIGHWAY 7
APPLICATIONS FOR OFFICIAL PLAN AND ZONING BY-LAW
AMENDMENTS TO PERMIT A TOWNHOUSE DEVELOPMENT

On May 26, 2015, Council adopted the following recommendations:

1. That the staff report dated May 19, 2015, titled "RECOMMENDATION REPORT, 1820266 Ontario Inc. (Times Group Inc.), 4002/4022 Highway 7 (north-east corner of Highway 7 and Village Parkway), Applications for Official Plan and zoning by-law amendments to permit a townhouse development," be received; and,
2. That Council approve applications by 1820266 Ontario Inc. (Times Group Inc.), 4002/4022 Highway 7 (north-east corner of Highway 7 and Village Parkway), Applications for Official Plan and zoning by-law amendments to permit a townhouse development; and,
3. That staff bring forward required documents including revisions to the plan as discussed and a document to guarantee transfer of density to lands owned by the developer on the south side of Highway 7, and further,
4. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Legal Services recommends that a Restrictive Covenant Agreement (the "Agreement") be negotiated with the developer, to be registered on title to any vacant lands south of Highway 7 (the "Subject Lands") owned by the developer. The Agreement, as recommended by Legal Services, would require following:

1. Prior to selling any units to end users, the developer must:
 - a. apply for a rezoning/variance to effect the density transfer referred to in Resolution #3, and
 - b. execute site plan agreements or subdivision agreements implementing the density transfer, and including a covenant not to downzone the Subject Lands;
2. Any new, non-end user purchaser must sign an assumption agreement, to ensure that the new purchaser is bound by the requirements of the Agreement, which would not otherwise run with title to bind future owners;
3. That the developer will make a section 37 payment for the town house development at the rate applicable to the previously approved apartment development, on the terms of the current Section 37 Agreement; and
4. The developer will provide \$20,000 security, which may be used by the City, at its option, to undertake the rezoning or variance at the developer's cost, if the developer fails to comply with its obligation to make the application for the density transfer. This security will be returned:
 - a. If the developer meets its obligation to obtain the rezoning/minor variance and executes the site plan agreement; or

- b. If the rezoning/variance is not approved due to circumstances beyond the developer's control (for example: an Ontario Municipal Board order refusing the application).


The Agreement would be removed from title to the Subject Lands parcel by parcel as each development implementing a portion of the unit transfer proceeds, until the full unit transfer is carried out. Removal from title parcel by parcel would ensure that the covenant not to downzone contained in the site plan agreements or subdivision agreements remain registered on title to all the undeveloped Subject Lands. Site plan agreements and subdivision agreements run with title and bind future owners, providing the City with some extra comfort that the lands would not be downzoned in the future.

Staff have discussed the Agreement required to secure the density transfer with the developer. The developer agrees to the requirement to amend the zoning to implement the density transfer, but does not agree to not seek a future downzoning. The developer agrees to items 1(a), 3, and 4 (with the exception of the requirement to execute the site plan agreement or subdivision agreement). The developer has also requested that the

Agreement be removed from title of the Subject Lands upon approval of development of the first 350 units, instead of removing it parcel by parcel, as staff recommend. If the developer's terms are agreed to, the only matter that would be secured (through the letter of credit) is the requirement to apply for the rezoning/variance. Future owners of the Subject Lands would not be bound as the Agreement terms do not run with title, and the developer does not agree to being required to obtain an assumption agreement, or to being required to execute site plan agreements or subdivision agreements prior to removing the Agreement from title. The effect of removing the Agreement from title upon development of the first 350 units is that there would be nothing to ensure that the development of the balance of the Subject Lands includes any of the density intended to be transferred from the lands north of Highway 7.

RECOMMENDATION:

1. That the memo from the City Solicitor entitled "1820266 Ontario Inc. (Times Group Inc.), 4002/4022 Highway 7 (north-east corner of Highway 7 and Village Parkway), Applications for Official Plan and zoning by-law amendments to permit a townhouse development," be received;
2. That the Mayor and Clerk be authorized to execute the Agreement to the satisfaction of the Chief Administrative Officer and the City Solicitor on the terms recommended by Legal Services, as a condition of Council's approval of the applications for the official plan and zoning by-law amendments referred to above; and
3. That the implementing by-laws not be signed until the Agreement has been executed and registered on title to the satisfaction of the City Solicitor.



Catherine M. Conrad
City Solicitor