



Report to: Development Services Committee

Report Date: March 24, 2015

SUBJECT: Wismer Commons Developers Group Inc. - Amendment to the Master Servicing Agreement for Municipal Trunk Infrastructure

PREPARED BY: Brian Lee, Deputy Director of Engineering, ext. 4838

RECOMMENDATION:

1. That the Development Services Commission report titled “Wismer Commons Developers Group Inc. – Amendment to Master Servicing Agreement for Municipal Trunk Infrastructure” dated March 24, 2015 be received;
2. That the Mayor and Clerk be authorized to execute an amendment to the existing master servicing agreement between the City of Markham and the Wismer Commons Developers Group Inc. dated March 12, 2001 as amended, to the satisfaction of the Chief Administrative Officer and the City Solicitor;
3. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

The proposed amendment to the master servicing agreement between the City of Markham and the Wismer Commons Developers Group Inc. dated March 12, 2001 (the “Valleyworks Agreement”), which was previously amended on January 2, 2004 and December 8, 2004 will allow the following works to be incorporated into the Engineering Works contemplated by the Valleyworks Agreement:

1. Construction of the Robinson Creek crossing of Roy Rainey Avenue (“the Roy Rainey Bridge”), and
2. Construction of a section of Castlemore Avenue (from Roy Rainey Avenue to Willow Street).

BACKGROUND:

In 2001, the Town of Markham entered into the Valleyworks Agreement with the Wismer Commons Developers Group Inc. (the “Group”) which is composed of landowners in the Wismer Commons Secondary Planning Area (OPA 37), to provide for the construction by the Group of certain core engineering services including drainage works, valley restoration, stormwater management facilities, and trunk sewer systems, in advance of execution of any subdivision agreement Council approved. Two amendments to the Valleyworks Agreement incorporated additional core engineering services such as stormwater, management ponds, sanitary trunk, and storm trunk sewers. The works constructed in accordance with the Valleyworks Agreements and the amendments thereto

benefited the broader Wismer community, and cost of these works could not be attributed to any single landowner. The Group agreed to be responsible for these works, and the Valleyworks Agreement was executed to secure the Group's obligations.

OPTIONS/ DISCUSSION:

More recently, the two additional engineering projects described below were constructed. These projects need to be incorporated into the Valleyworks Agreement as they benefit the wider Wismer community, and are not the financial responsibility of a particular landowner (see Attachment "A").

A) Roy Rainey Bridge

In the December 8, 2004 amendment, a culvert crossing of the Robinson Creek was added to the list of engineering works to be constructed by the Group. In 2009 and prior to the construction of the Robinson Creek culvert, Redside Dace (*Clinostomus elongates*) which is a minnow only found in southern Ontario in Canada was added to the Endangered Species list under the Ontario *Endangered Species Act, 2007, S.O. 2007*. Redside Dace is also listed as an Aquatic Species at Risk under the Federal *Species at Risk Act, 2002, c.29*. In order to avoid any impact to the Redside Dace habitat in the Robinson Creek, Ministry of Natural Resources and Forestry required the culvert crossing be modified to a bridge crossing which spans the valley. The bridge is now completed and will be open to traffic, cyclists and pedestrians. The proposed amendment will add the bridge to the original 2001 agreement. Additional engineering fees will be paid as part of increased construction costs.

B) Castlemore Avenue

Another element of the engineering works to be addressed through the proposed amendment is the completion of the last section of Castlemore Avenue between Roy Rainey Avenue and Willow Street. As Castlemore Avenue is a collector road, it is the responsibility of the Group to finance its construction. The construction of this section of Castlemore Avenue will provide access to the subdivision and the City park. Similarly the amendment will reflect the final cost of the construction, financial securities and engineering fees.

The proposed amendment to the Valleyworks Agreement is a house keeping exercise to recognize these engineering works, and Staff recommend that the amendment be executed to secure the Group's obligation to maintain these works until final assumption, prior to total release of the financial guarantees. The Group's representative has reviewed the proposed amendment to the Agreement, consulted with various landowners, and are in agreement with the proposed amendments.

ALIGNMENT WITH STRATEGIC PRIORITIES:

The amendment of the Valleyworks Agreement to provide additional engineering works aligns with the City Official Plan and Wismer Commons Secondary Plan in completing the community of Wismer Commons, and the master transportation plan. The redesign of Robinson Creek crossing from a culvert to a bridge satisfies the City's "Environment First" approach to land use planning, and is consistent with a number of City policies and strategic directions such as the Markham's Town of Markham Greenway System (2009), Greenprint (2011), and the new Markham Official Plan (2014).

BUSINESS UNITS CONSULTED AND AFFECTED:

Planning and Legal departments have been consulted and their comments are reflected in this report.

RECOMMENDED BY:



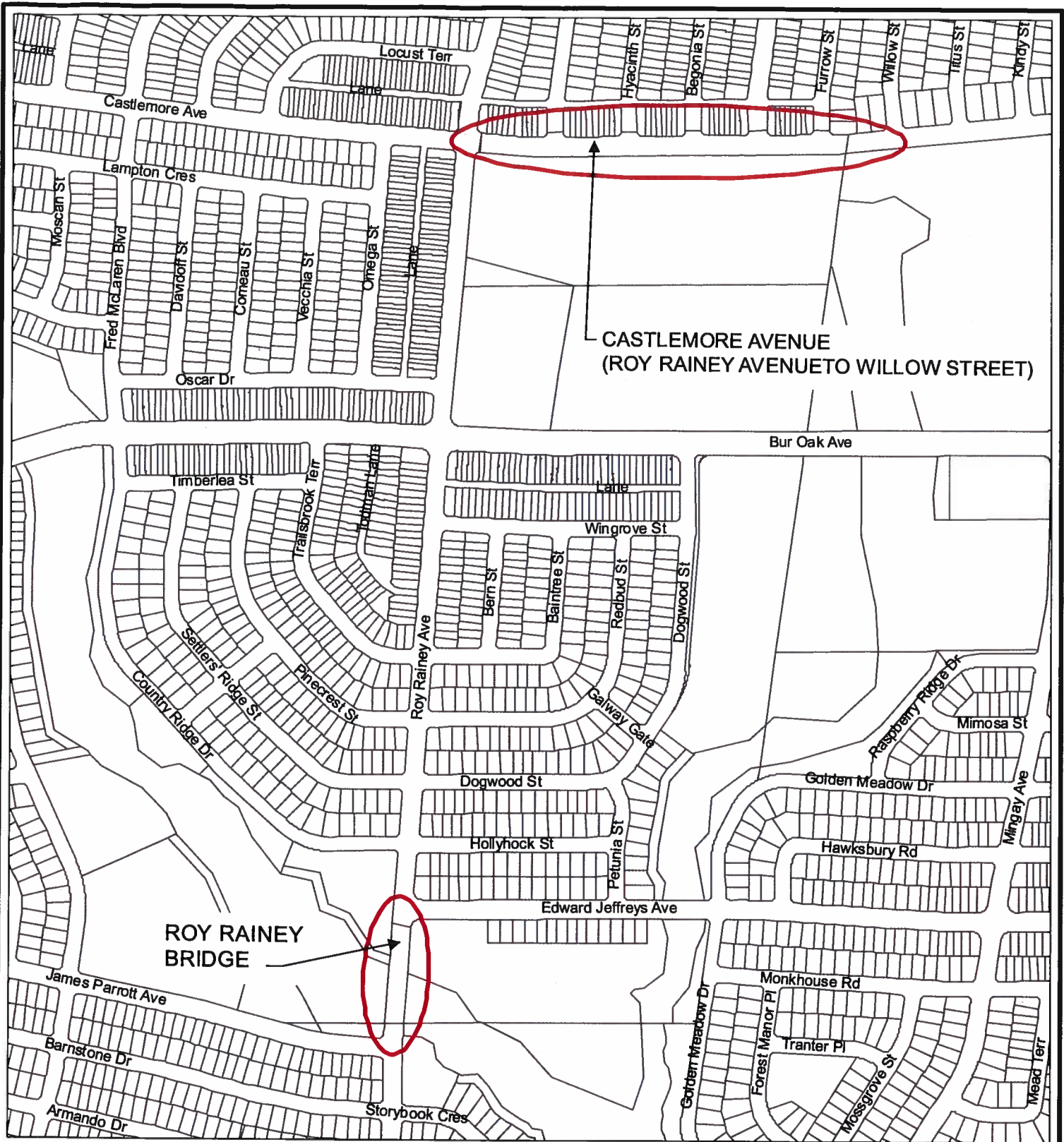
Alan Brown, C.E.T.
Director of Engineering



Jim Baird, M.C.I.P., R.P.P.
Commissioner of Development Services

ATTACHMENTS:

Attachment "A" – Location Map



ATTACHMENT 'A' - LOCATION MAP



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DEVELOPMENT SERVICES COMMISSION

Drawn By: CPW

Checked By: BL

DATE: 24/02/2015