

December 21, 2009



City Council Committee Report

To: Mayor & Council

Fr: Tara Rickaby, Planning Administrator

Re: Assumption of portion of Peterson Drive and Certificate of release and discharge of obligations – M & L Development

Recommendation:

That the Council of the Corporation of the City of Kenora by the passing of a by-law, the City of Kenora declares that the Owner is not in default of any of the provisions of the Agreement; and THAT the City of Kenora accepts and assumes a portion of Peterson Drive, for municipal purposes, identified on Plan of Subdivision 23M953; and THAT the City of Kenora, by passing of said by-law, releases the Owner from any further obligations associated with the Agreement.

Background:

The City of Kenora entered into a subdivision agreement with M & L Development Ltd. on July 16, 2007.

In November, 2009, the Operations Manager recommended that the extension of Peterson Drive be accepted and assumed.

The City is in receipt of a statement by the Owner's solicitor which confirms that there are no liens or encumbrances on title.

A review of City records indicates that the requirements of sections 38 Requirements for Release of Maintenance Guarantee and 39 Requirements for Certificate of Release, of the subdivision agreement, have been met.

Budget: N/A – Costs borne by property owner

Communication Plan/Notice By-law Requirements: Per Notice By-law; notice by agenda of Property and Planning Committee and Council. Municipal solicitor.

38. REQUIREMENTS FOR RELEASE OF MAINTENANCE GUARANTEE

The Owner agrees that the City shall not be obligated to release the Owner the unused portion of any Maintenance Guarantee until:

- (1) a Certificate of Release has been issued for the Works for which such Maintenance Guarantee was required; and
- (2) the Owner has provided the City with a statutory declaration that the Owner has paid all accounts payable in respect of the maintenance of all of the Works for which such Maintenance Guarantee was required and that there was no outstanding claims relating to such Works.

39. REQUIREMENTS FOR CERTIFICATE OF RELEASE

The City agrees to provide the Owner with an effective written release for the said lands, referred to herein as the 'Certificate of Release', in a form suitable for registration or deposit in the applicable Registry or Land Title Office. In addition to any other requirements contained herein, the Certificate of Release shall not be issued until:

- (1) the two year maintenance period has expired; and
- (2) Certificates of Completion have been issued for all of the Works; and
- (3) a registered Ontario Land Surveyor, approved by the City, has provided the City with written confirmation that, at a date not earlier than the end of the maintenance period described herein, he or she has found or replaced all standard iron bars, as shown on the Plan and survey monuments at all block corners, the ends of all curves other than corner roundings and all points of change in direction of roads on the Plan; and
- (4) the Municipal Solicitor has verified that there are no outstanding claims against the said lands; and
- (5) the Municipal Council has by resolution, declared that the Owner is not default of any of the provisions of the Agreement.

The Certificate of Release shall operate as a discharge of all obligations of the Owner under the Agreement with the exception of the Owner's responsibility for drainage as provided herein.



Spruce St

Darlington Drive

Norman Drive

Norman Drive

Norman Dam Road