



Town of Penetanguishene Section Report

TO COMMITTEE: **Transportation and Environmental Services**

COMMITTEE CHAIR: **Doug Leroux Deputy Mayor**

SUBJECT: **Hammerhead at the end of Keefe St.**

RECOMMENDATION

That Section confirm that all costs related to servicing the two new lots on the South end of Keefe St. are the developer's responsibility.

INTRODUCTION

In 2001 Mr. Martin Woods filed a severance application, the purpose of which was to create some new building lots that would front onto Keefe St and Church St.

The eventual outcome of the severance application in relation to Keefe St was that two lots were created at the South end of Keefe St. These lots would not front onto a improved public road "as required by the zoning bylaw" until some land was transferred to the town by the developer and declared as part of Keefe St.

ANALYSIS

Currently the Public Works Department stores snow at the end of Keefe St. With the two new building lots at the southerly limit of Keefe St. this practice could not continue for obvious reasons. The Public Works Department required a means for snow storage at the end of Keefe St. In order to provide access to these two new lots, a means for P.W vehicles to turn around was required. The P.W. considered this and eventually decided that a hammerhead would best suit the requirement for snow storage and maintenance access to these new lots. These lots do not currently have any municipal services. A watermain and sanitary services would have to be extended on Keefe St through the hammerhead to the new building lots. This is also why, when the subject lands were rezoned in 2001, a HOLDING symbol was affixed to the zoning which remains in effect today and would not be removed until satisfactory arrangements were made with the town regarding the provision of services/construction of the "hammerhead" portion of the road . In November of 2006, the Public Works Director began receiving calls from Gray Watters a real estate agent representing Mr. Woods. Mr. Watters indicated that since the municipality required Mr. Woods to transfer the land but did not stipulate that he had to pay for the construction of the hammerhead, it was the town's responsibility.

A meeting between the Town Engineer, Director of Public Works, Mr. Woods and Mr. Watters was held to discuss the issue. The Director and Town Engineer reiterated that it was the developer's responsibility to pay for the construction of the hammerhead

Letter from Mr. Woods Lawyer.

The Director of Public Works received a letter from Ted Symons a lawyer engaged by Mr. Woods, dated December 12, 2006. In his letter, Mr. Symons provides his opinion that the town is responsible to pay for the hammerhead based on the following,

- the town did not have the requirement that the developer pay for the construction of the hammerhead as a condition of the severance.
- the hammerhead is only needed for town purposes.
- requiring the developer to pay for the hammerhead would be unfair.

Response from town's lawyer.

Mr. Grise's response that the town is not responsible for the cost of the hammerhead is based on the following rationale.

- "To utilize these lots for building purposes an open municipal road will be required for the two Keefe St. lots and municipal services will be required for all four lots."
- "The granting of Consent under the Planning Act does not imply that the municipality is going to service the newly created lots any more than the granting of Consent to Subdivision implies that the municipality will provide services that the subdivision requires."
- "To put it in perspective the condition is really not very different from conditions that require an applicant to convey land to the municipality for a road widening or a daylight triangle. That does not imply that the road will be widened or the daylight triangle will be utilized".

CONCLUSION

In addition to the response provided by our lawyer, I would like to emphasize the following.

Rationale for the need of the hammerhead

- The hammerhead is solely required to provide access to these lots and snow storage. Notice of Decision B8/2001 confirms that this is the rationale for the hammerhead.
- The hammerhead is required to provide frontage for both of the new lots. Extending Keefe Street to the lot line of these two new lots would not provide this frontage.
- At no time did the municipality indicate that the cost of servicing these lots would be assumed by the municipality. The municipality does not pay servicing costs for private development.

Since the developer did not question his responsibility to install the underground services, he has rightly assumed that this is his sole responsibility. To install the underground services and restore the site, a very large part of the hammerhead will have to be excavated and restored by the developer thus constructing part of the hammerhead.

Financial Implications

There will be a modest increase in operating cost because of maintenance of the additional services.

RISK MANAGEMENT

If the municipality assumes the financial responsibility to service these lots a very bad precedent could be set for the future.

Prepared by: John Boucher, Director of Public Works

Meeting Date: March 5th, 2007

