

<b>TO:</b>	<b>CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE</b>
<b>FROM:</b>	<b>GEORGE KOTSIFAS, P.ENG. DIRECTOR, DEVELOPMENT AND COMPLIANCE DIVISION AND CHIEF BUILDING OFFICIAL</b>
<b>SUBJECT:</b>	<b>OLD VICTORIA EAST 1697 HAMILTON ROAD, 1742 HAMILTON ROAD, 1990 COMMISSIONERS ROAD EAST THAMES VILLAGE JOINT VENTURE CORPORATION</b>

**RECOMMENDATION**

That, on the recommendation of the Director, Development & Compliance Division and Chief Building Official the following actions be taken:

- a) That Old Victoria Stormwater Management Facility No. 1 **BE CONSIDERED** for inclusion as part of the 2014 Development Charges Study and DC By-law Update;
- b) That an agreement **BE DRAFTED** by staff between the City and Thames Village Joint Venture Corporation to initiate an addendum to the Old Victoria Stormwater Management Environmental Assessment to adjust the location of Old Victoria Stormwater Management Facility No.1 with all costs to be borne by the applicant; and
- c) That a Municipal Servicing and Financing Agreement between the City and the Thames Village Joint Venture Corporation **BE CONSIDERED** at the time of completion of the 2014 DC study subject to the Old Victoria Stormwater Management Facility No.1 being included in the 2014 Development Charges Study and DC By-law Update, it being noted that the outcome of the assessment would, in part, be dependent on the outcome of a review of the financial position of the DC SWM Reserve Fund.

**PREVIOUS REPORTS PERTINENT TO THIS MATTER**

May 7, 2012 – Delegation to Planning and Environment Committee – Don De Jong, Thames Village Joint Venture Corporation

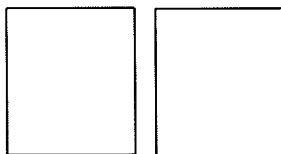
February 21, 2012 – Report to special meeting of Planning and Environment Committee – “2012-2016 Growth Management Implementation Strategy”

February 6, 2012 – Report to the Planning and Environment Committee – “2012-2016 Growth Management Implementation Strategy”

November 16, 2011 – Report to Finance and Administration Committee – “Municipal Service Financing Agreements”

**PURPOSE OF THE REPORT**

Following the May 7, 2012 delegation of the Thames Village Joint Venture Corporation (the Applicant), Council resolved that civic administration report back to the Planning and Environment Committee, within 90 days regarding the status of the Old Victoria East development proposal. Since that time, Staff have held several meetings with the Applicant. As well, an application for plan of subdivision was submitted to Development Services on May 11, 2012, which was deemed incomplete and returned to the Applicant. The following report summarizes the discussions held with the Applicant and outlines the proposed means to resolve outstanding issues in order to progress a complete plan of subdivision application.



## BACKGROUND

An Initial Proposal Report was submitted by the Applicant on June 14, 2010 outlining their assumptions for the development of this site in accordance with the File Manager Subdivision Approval Process. Staff came together at Proposal Review to provide commentary and establish requirements for a complete Plan of Subdivision Application. The Applicant's proposal suggested Old Victoria SWM Facility #1, required to service this plan, was accounted for in the DC Background Study, however this assumption had not been confirmed at the time. There was also uncertainty around the proposed location of the SWM facility within the Hydro One easement as shown in the Old Victoria Stormwater Management EA. As such, the Record of Consultation released on August 20, 2010 clearly outlined the requirement to confirm both the funding source and location of the Old Victoria SWM Facility #1 as part of a complete plan of subdivision application.

The Applicant came forward as a delegation at the May 7, 2012 meeting of the Planning and Environment Committee (PEC). In a letter dated April 23, 2012, the Applicant requested that Committee direct staff to work with the Applicant to progress the functional design of SWM facility, investigate financing options for the SWM facility and allow for submission of a subdivision application. The matter was referred back to staff to report back within 90 days.

Subsequent to the May 7, 2012 PEC meeting, the Applicant submitted an application for plan of subdivision on May 11, 2012. The application was reviewed within 30 calendar days and determined to not meet the test of completeness as it did not provide a financing solution for the facility and did not include the necessary documentation and correspondence to confirm the location of the facility as shown in the Old Victoria SWM EA. The Application was returned as incomplete on June 4, 2012.

## DISCUSSION

The following provides a summary of discussions held with the Applicant and the path proposed by staff to address the issues of financing Old Victoria SWM Facility #1, confirm its location and size and progress an application for draft plan of subdivision.

### **Financing of Old Victoria SWM Facility #1**

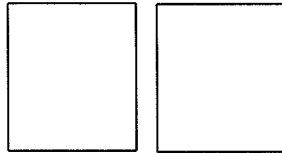
#### Status of Facility in 2009 DC Background Study

Development Finance and Development Services staff met with the Applicant and their financing consultant, Victor Coté, to discuss the financing of Old Victoria SWM Facility #1. The discussion raised a number of unresolved questions related to whether the SWM facility was included in the Engineering Master Plans used to calculate the current development charge rate (and therefore eligible to be considered for acceleration).

The City's 2009 development charges master servicing plan consultant, AECOM, was contacted in order to provide a conclusive opinion on whether the stormwater pond was included. AECOM staff confirmed that Old Victoria SWM Facility #1 is not included in the 2009 Development Charge rate calculation. As the pond is not included in the current rate calculation, there is no basis for financing the facility from a development charge reserve fund. The Development Charges Act provides for the ability to apply the funds raised through DC rates for financing only those growth works accounted for in the rate calculation. In this case, Old Victoria SWM Facility #1 does not meet this statutory requirement, nor can it be met on the basis that the facility represents a substitute project for another pond within the rate calculation. All of this information was provided to the Applicant June 12, 2012.

#### GMIS & 2014 DC Background Study

Through a resolution by Council on February 21, 2012, Old Victoria SWM Facility #1 is currently shown in the Growth Management Implementation Strategy (GMIS) for 2017 as a placeholder timing to be considered in the 2014 DC Background Study Update. The technical work related



to the 2014 Development Charges Study has begun and will provide an opportunity to include the Old Victoria Stormwater Management Facility #1 in the DC rate calculations. Using the current GMIS as a basis, this facility could be included as a growth project with 2017 timing in the 2014 Development Charges Study subject to stakeholder input. The Applicant has expressed a desire to advance the SWM facility and their development prior to 2017. Once included in the rate calculation, Old Victoria SWM Facility #1 could be considered for acceleration through the MSFA policy.

#### Municipal Servicing Financing Agreement (MSFA) Policy

City Staff are currently finalizing detailed policy work related to the Municipal Servicing Financing Agreement (MSFA) policy to be completed prior to bringing the 2014 Development Charges By-law into effect. Under the MSFA policy, applicants will be able to apply for consideration to enter into an agreement to advance the timing of DC works. All requests to enter a MSFA would be subject to Council approval based on the merits of the accelerated work and an assessment that considers the financial condition of the reserve fund, among other criteria.

A MSFA for Old Victoria SWM Facility #1 would incorporate all terms governing the financing, construction and reimbursements related to the advanced timing of these works. The MSFA terms would also address reasonable costs of functional and detailed design work as eligible for reimbursement from the City Services Reserve Fund. Having entered into an agreement with the City, the Old Victoria Stormwater Management Facility No.1 could be constructed as soon as 2014 (subject to OPA, ZBA and Draft Plan approvals).

#### Proposed Financing Option

Development Finance staff offers the following approach to establishing a funding source for the Tridon SWM pond in order to provide a fair process that works within the framework of the DC Act, DC By-law and the Planning Act:

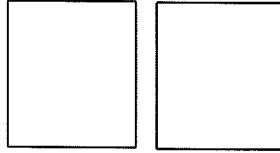
- Through the 2014 DC Background Study Update, Staff would propose identification of Old Victoria SWM Facility #1 as City Services Reserve Funded to be scheduled for 2017 as previously endorsed by Council.
- Subject to approval of the 2014 DC Study including Old Victoria SWM Facility #1, the Applicant could request the City initiate a review of their proposal to accelerate the works from 2014 to 2017. The review would include an assessment of the merits of the application and financial position of the DC SWM Reserve Fund.
- Pending Council approval, the Applicant would enter into a MSFA with the City to finance and construct the facility. This agreement would allow for acceleration of the pond construction from 2017 to 2014.
- Functional design for Old Victoria SWM Facility #1, including any required EA addendum, can be initiated with all costs initially borne by the Applicant and terms for eligible reimbursement would be included in the future MSFA.

It should be noted that financial conditions may trigger DC Background Study recommendations to defer construction of Old Victoria SWM Facility #1 beyond 2017.

An alternative to the option noted above would be to revisit the previous February 21, 2012 Council Resolution that directed staff to include the Old Victoria SWM Facility #1 into the GMIS for 2017:

- Through the 2014 DC Background Study Update, Staff could propose identification of Old Victoria SWM Facility #1 as City Services Reserve Funded to be scheduled for the year 2014.
- This option would eliminate the need for an MSFA agreement.
- Functional design for Old Victoria SWM Facility #1, including any required EA addendum, can be initiated with all costs initially borne by the Applicant and eligible reimbursements to be in accordance with the DC By-law.

However, modifying the timing for this facility without the comprehensive analysis that is undertaken as part of the GMIS and Development Charges Study processes has the potential to



result in deferral of other ponds in the capital plan, an increase in the DC SWM rate and higher DC financing costs. Acceleration of Old Victoria SWM Facility #1 pond to 2014 in the upcoming DC Study may also delay other developments throughout the City that require stormwater management servicing in order for their lands to develop. The 2014 DC Background Study process provides for a comprehensive analysis considering all identified growth works City-wide to schedule works according growth needs and affordability.

### **Confirming Old Victoria SWM Facility #1 Location**

#### Old Victoria SWM Environmental Assessment

The Old Victoria Stormwater Management EA was completed in October 2007. The EA identified Old Victoria SWM Facility #1 servicing the developable lands north/east of Hamilton Road to be located within the existing Hydro One easement corridor. Subsequent to the EA's completion it was discovered that both Hydro One and the Ministry of the Environment (MOE) have concerns with locating SWM facilities within hydro easements. As a result, the Record of Consultation and Proposal Review meeting minutes clearly identified that a complete plan of subdivision application shall include:

- a letter from Hydro One confirming they are agreeable to locating the SWM facility within the existing hydro easement; and
- Should the hydro corridor conflict with the proposed location of the SWM facility as identified in the EA, an addendum/ location.

#### Confirming Pond Location and Footprint

The plan of subdivision application submitted on May 11, 2012 did not include a letter of confirmation from Hydro One. However, since that time, the Applicant has produced correspondence from Hydro One permitting partial encroachment into the easement subject to defined limitations. In order to meet the Hydro One's encroachment restrictions, the facility shall span no more than 2/3 the width of the easement and provide for 6m access to any hydro structures. As well, the MOE has expressed concern over granting Environmental Compliance Approval Certificates for infrastructure located on lands not owned by the operating body.

The restrictions for encroachment into the Hydro One corridor necessitate shifting the pond location from that described in the approved EA and as such will trigger an EA addendum to confirm the revised location and footprint of the facility. An EA addendum to relocate the SWM facility needs to be completed prior to draft approval as it establishes the size and location of the SWM block with the draft plan. As a typical EA addendum cannot be completed within the legislated review timeline for a plan of subdivision application, City practice is to require the completion of EA's and addendums prior to a plan of subdivision application.

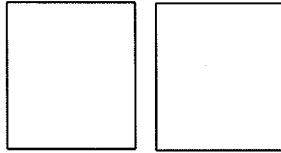
#### Addendum to Old Victoria SWM EA

The City was the proponent for the original EA in 2007 and would also be the proponent to lead an addendum. As the facility is not identified in the current DC Background Study, the City does not have a source of financing to progress an addendum. However, subject to Council approval of the 2014 DC Background Study including Old Victoria SWM Facility #1, the EA addendum costs would be eligible for reimbursement. With the Applicant's agreement to finance the addendum, it could be initiated this year in advance of the 2014 DC Background Study so that it can be completed in advance of a future updated subdivision application.

### **Progressing a Plan of Subdivision Application**

#### Complete Application

In 2006, changes in legislation provided municipalities the ability to refuse applications for plan of subdivision that do not meet requirements as defined by the municipality through mandatory consultation and prescribed in the Planning Act. The requirement for complete plan of subdivision applications promotes increased accountability for applicants and provides staff with the materials necessary to complete a focused, efficient review and develop appropriate, satisfactory conditions of draft approval.



In the case of the Old Victoria East development proposal, there is no mechanism by which the Applicant can satisfy draft approval conditions to construct the required SWM facility prior to securing a funding source within the DC rate calculation and completing an EA Addendum to relocate the SWM facility. As such, the Approval Authority is not in a position to grant draft approval at this time.

The Applicant is open to submit an application for Official Plan Amendment to revise land use designations, aggregate resource delineations and road classifications in advance of the subdivision application. Application for amendment to the Zoning By-law will need to go concurrent to the subdivision application as the applicable zoning is dependent upon results of the EA Addendum and lot and block configuration of the draft plan.

Progressing a Plan of Subdivision

Recognizing the Applicant's urgency to advance their development, staff offer the following progression of actions to reach draft approval in the shortest time possible while keeping within the framework of Council Policy, the Planning Act and the Development Charges Act.

Now	Engage the Stormwater Unit to <b>initiate an addendum to the Old Victoria Stormwater EA</b> to establish a shifted facility location and block size.
Now	<b>Submit application for Official Plan amendments</b> to address designations and road classifications in advance of the plan of subdivision application.
Mid 2013	Upon release of Draft DC Schedule of Works indicating Old Victoria SWM Facility #1, <b>submit updated application for plan of subdivision</b> and parallel review of the application with wrap-up of background study.
Spring 2014	Upon completion of 2014 DC Background Study with the inclusion of Old Victoria SWM Facility #1, Approval Authority would be in position to <b>grant draft approval</b> .
Mid 2014	Initiate <b>construction of the Old Victoria SWM Facility #1</b> either under an MSFA (subject to Council approval) to advance to 2014 or as a 2014-timed project dependent on the outcome of the DC Background Study.

It is strongly recommended the Applicant undergo a follow-up consultation to reconfirm the requirements for complete application prior submitting an updated subdivision application.

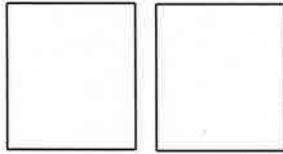
**CONCLUSIONS**

At this time, there is no funding mechanism for the required SWM Facility in the DC rate and an EA Addendum is required to relocate the SWM facility and establish the SWM Block. As such, the Approval Authority is not in a position to grant draft approval at this time.

Development Finance staff have offered a path to establishing a funding source that meets the needs of the DC by-law, the MSFA policy framework, and the DC Act. This would involve approval of the pond in the 2014 DC Background Study, and, depending on timing, may also require assessment of the possibility of accelerating the pond to 2014 through an MSFA. Pending approval by Council of both the DC rate study and the MSFA, the major issues related to financing of the pond would have been addressed.

The Stormwater Management Unit has offered to work with the Applicant to progress an addendum to the Wickerson Area SWM EA in order to establish the adjusted SWM block location and size in advance of an updated plan of subdivision application. The addendum could be initiated upon the Applicant entering into an agreement with the City to front the cost of the study.




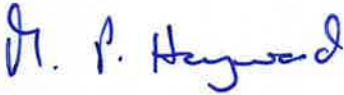
The Development Services will continue to work with the Applicant to guide them through the required processes to reach draft plan approval in as timely a manner as possible within



applicable policy and legislation and will continue to work in coordination with Development Finance and the Stormwater Management Unit.

**Acknowledgments:**

This report was prepared in Development Services with contributions from Scott Mathers, P.Eng. of Development Finance and Berta Krichker, P.Eng. of the Stormwater Management Unit.

<b>SUBMITTED BY:</b> 	<b>CONCURRED BY:</b> 
<b>JENNIE A. RAMSAY, P.ENG. MANAGER DEVELOPMENT SERVICES</b>	<b>PETER CHRISTIAANS, C.A. DIRECTOR DEVELOPMENT FINANCE</b>
<b>RECOMMENDED BY:</b> 	<b>CONCURRED BY:</b> 
<b>GEORGE KOSTIFAS, P.ENG. DIRECTOR, DEVELOPMENT &amp; COMPLIANCE DIVISION AND CHIEF BUILDING OFFICIAL</b>	<b>MARTIN HAYWARD CITY TREASURER AND CHIEF FINANCIAL OFFICER</b>

August, 2012  
JR/lf

cc.

- J. Braam, City Engineer
- B. Krichker, Manager - Stormwater
- S. Mathers, Manager - Development Finance
- J. Leunissen, Manager - Development Planning
- L. Mottram, Senior Planner, Development Services