REPORT TO: Committee of the Whole
FROM: Amy Knapp, Planner
DATE: February 17, 2015
SUBJECT: Acceptance of Drainage Agreement
Consent Application B22/14
Willmart Grain Ltd
2108 Flos Road Four West

REPORT HIGHLIGHTS

- Consent Application B22/14 was approved by the Committee of Adjustment on December 3rd, 2014 to re-establish the conditional approval for a consent and easement that was obtained through a settlement before the Ontario Municipal Board (OMB).
- Condition No. 3 requires that the applicant satisfy Section 65 of the Drainage Act, 1990.
- The Township Drainage Superintendent, confirmed that the subject lands are assessed into the Phelpston Marsh Municipal Drain and therefore the applicable drainage assessment is required to be split into fair and reasonable apportionments with respect to any future drainage maintenance costs and in accordance with By-law 2008-088.
- An agreement between the transferor and transferee of the severed lot has been reached and now requires endorsement from the Township

RECOMMENDATION

THAT the report from the Planner regarding the Drainage Agreement Acceptable (Willmart Grain Ltd) dated February 17, 2015, be received; and

THAT the terms of the agreement as provided by the affected parties to the severance with respect to the split in drainage apportionment under section 65 of the Drainage Act be accepted.

BACKGROUND

Consent Application B22/14 was approved by the Committee of Adjustment on December 3rd, 2014 to re-establish the conditional approval for a consent and easement that was obtained through a settlement before the Ontario Municipal Board (OMB).

Condition No. 3 to the Committee’s Decision requires “That the owner/applicant satisfy and be responsible for all costs to satisfy Section 65 of the Drainage Act, 1990 if applicable.” A copy of the complete decision can be found under Appendix A.
In the owner/applicant’s efforts to meet the conditions imposed, it was determined that 44.1 hectares (109 acres) out of a total lot area of 50 hectares (123 acres) of the subject lands are assessed into the Phelpston Marsh Municipal Drain and therefore the applicable drainage assessment is required to be split into fair and reasonable apportionments with respect to any future drain maintenance costs.

The owner/applicant as transferor of the severed parcel has entered into an agreement with the transferee to split the drainage assessment. Accordingly, 2.1 hectares of the retained parcel will assume 4.76 % percent of the original assessment of the Phelpston Municipal Drain with the remaining 42 hectares of the severed parcel be apportioned 96.24 percent of the assessment. A copy of the Township’s detailed drainage assessment can be found within Appendix B.

**BUDGET IMPLICATIONS**

There are no budget implications related to this file at this time.

**CONCLUSION**

THAT the report from the Planner regarding the Drainage Agreement Acceptance (Willmart Grain Ltd) dated February 17, 2015, be received; and

THAT the terms of the agreement as provided by the affected parties to the severance with respect to the split in drainage apportionment under section 65 of the Drainage Act be accepted.

**GUIDING PRINCIPLES**

The above initiative supports Council’s guiding principle of:

1. *Community Development*
2. *Growth Management*

**APPLICABLE MUNICIPAL POLICY OR LEGISLATION**

- Planning Act, R.S.O. 1990
- Provincial Policy Statement
- Growth Management Plan for the Greater Golden Horseshoe: Places to Grow
• Simcoe County Official Plan
• Township of Springwater Official Plan
• Township of Springwater Zoning By-law 5000

APPROVALS

Submitted by: Amy Knapp, Planner
Reviewed by: Mark Archer, Deputy Director of Public Works
Reviewed by: Brent Spagnol MCIP, RPP, Manager of Planning
Budget Implications Reviewed by: Jeff Schmidt CPA, CGA, BAS, Director of Finance
Approved by: Robert Brindley, Chief Administrative Officer

Version code: D10 171284504/02/2015

Background/Relevant reports on the subject:

• Appendix A – Notice of Decision for Consent Application B22/14
• Appendix B – Township Drainage Assessment
APPENDIX A

THE CORPORATION OF THE TOWNSHIP OF SPRINGWATER

COMMITTEE OF ADJUSTMENT

NOTICE OF DECISION

FILE NO. B22/14 – WILLMART GRAIN LTD.

IN THE MATTER of an application to the Committee of Adjustment of Springwater Township under Section 53 of the Planning Act of Ontario, R.S.O. 1990, c.P. 13, as amended.

IN THE MATTER OF CONSENT RE-APPLICATION B22/14 BY Willmart Grain Ltd., owner of property in Lot 14, Concession 4, former Township of Flos, now in the Township of Springwater, known municipally as 2108 Flos Road Four West. This application seeks to reinstate the approval given by the Ontario Municipal Board under Consent Application B29/11, which has expired. The purpose is to create a new lot consisting of approximately 30 metres (98.43 ft) of frontage and a lot area of 43.8 hectares (108.2 acres). The applicant proposes to retain approximately 8.6 hectares (21.2 acres) of land with approximately 63.8 metres (209 ft.) of frontage along Flos Road Four West with an existing dwelling, storage buildings and garage. An easement is also proposed across the severed parcel for access to and around the storage building on the retained lands.

DECISION:

That the Committee of Adjustment, having given consideration to the applicable provisions of Section 53 of the Planning Act, the Official Plan of the Township of Springwater, the characteristics of the subject land and its surroundings as addressed in the Planning Report on the subject application dated December 3, 2014, the correspondence received, and information presented at the hearing held on December 3, 2014 and the discussion on the matter, hereby APPROVE of the application as applied for subject to the following conditions and consistent with the OMB Decision issued August 22, 2013:

1) That the applicant meet all the requirements, financial or otherwise of the Municipality
2) That the applicant provide two copies of the registered survey of the severed lot and easement, prepared by an Ontario Land Surveyor
3) That the owner/applicant satisfy and be responsible for all costs to satisfy Section 55 of the Drainage Act, 1990 if applicable
4) That the retained and severed lands be appropriately zoned.

NOTE: If all conditions of this decision have been fulfilled within one year from the date this notice of decision is mailed and all authorities have so notified the Committee in writing, the Secretary-Treasurer is authorized to provide a certificate as provided for in Subsection 55 (42) of the Planning Act, R.S.O., 1990, c.P.13.

The following extracts (subsections 19 and 21) of Section 53 of the Planning Act, R.S.O. 1990, c.P.13, as amended reads as follows.

- 4 -
"(19) Any person or public body may, not later than 20 days after the giving of notice under subsection (17) is completed, appeal the decision or any condition imposed by the Committee of Adjustment or appeal both the decision and any conditions to the Municipal Board by filing with the Secretary-Treasurer of the Committee of Adjustment a notice of appeal setting out the reasons for the appeal, accompanied by the fee prescribed under the *Ontario Municipal Board Act*, 1994, c. 23, s. 32, part; 1996, c. 4, s. 29 (6).

(21) If no appeal is filed under subsection (19) or (27), subject to subsection (23), the decision of the Committee of Adjustment to give or refuse to give a provisional consent is final. 1904, c. 23, s. 32, part."

NOTE: If you wish to appeal to the Ontario Municipal Board (OMB), a copy of an appeal form is available from the OMB website at www.omb.gov.on.ca or by calling 1-866-887-8820. The form, together with the appropriate fee, are to be sent by REGISTERED MAIL or PERSONAL DELIVERY TO:

The Secretary-Treasurer,
Committee of Adjustment
Township of Springwater
2231 Nursery Road, Minesing, ON L0L 1Y2

NOTE: Only individuals, corporations and public bodies may appeal decisions in respect of applications for consent to the Ontario Municipal Board. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group.

THE LAST DAY FOR APPEAL IS **January 2, 2015**.

This file is available for inspection at the Township of Springwater offices, 2231 Nursery Road, Midhurst during regular office hours, Monday to Friday, 8:30 a.m. to 4:30 p.m.

CERTIFIED TRUE COPY OF THIS NOTICE OF DECISION WAS MAILED TO THE APPLICANT ON THE **5th** OF **December**, 2014.

Amy Knapp
Deputy Secretary-Treasurer
Committee of Adjustment

Lorren Cooney

Tami Kitay

Gerald Sullivan

Robert McClung
### APPENDIX B

#### Current Assessment Bylaw 2005-081

<table>
<thead>
<tr>
<th>ROLL NO.</th>
<th>OWNER</th>
<th>CONC.</th>
<th>LOT</th>
<th>OMAFRA GRANT</th>
<th>HECTARES AFFECTED</th>
<th>OUTLET SECTION</th>
<th>PUMPLIFT WORKS</th>
<th>MAIN DRAIN</th>
<th>MICELWAIR - ROBERTSON BR.</th>
<th>DWINELL ELLIOT ON ELLIOT 5TH TO END</th>
<th>DWINELL ELLIOT ON ELLIOT 6TH TO END</th>
<th>10 S.R. BRANCH</th>
<th>TOTAL ASSESSMENT</th>
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<tbody>
<tr>
<td>3-183</td>
<td>Willmart Grin</td>
<td>IV</td>
<td>N1/2 Lot 14 &amp; EL/2 of SW1/4 Lot 14 Y</td>
<td>44.1 $</td>
<td>193.38 $</td>
<td>650.62 $</td>
<td>59.70 $</td>
<td>446.04 $</td>
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<td>$</td>
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#### Revised Assessment, due to Equivance

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<tr>
<th>ROLL NO.</th>
<th>OWNER</th>
<th>CONC.</th>
<th>LOT</th>
<th>OMAFRA GRANT</th>
<th>HECTARES AFFECTED</th>
<th>OUTLET SECTION</th>
<th>PUMPLIFT WORKS</th>
<th>MAIN DRAIN</th>
<th>MICELWAIR - ROBERTSON BR.</th>
<th>DWINELL ELLIOT ON ELLIOT 5TH TO END</th>
<th>DWINELL ELLIOT ON ELLIOT 6TH TO END</th>
<th>10 S.R. BRANCH</th>
<th>TOTAL ASSESSMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>3-183</td>
<td>Willmart Grin</td>
<td>IV</td>
<td>N1/2 Lot 14 &amp; EL/2 of SW1/4 Lot 14 N</td>
<td>42 $</td>
<td>184.32 $</td>
<td>619.64 $</td>
<td>56.15 $</td>
<td>424.00 $</td>
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<td>Severed Parcel</td>
<td>IV</td>
<td>Pl of EL/2 of SW 1/4 Lot N</td>
<td>1.1 $</td>
<td>9.22 $</td>
<td>30.96 $</td>
<td>2.14 $</td>
<td>11.24 $</td>
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**Note:** 0.0476% represents the percentage reduced on the retained lands or 4.7619% for the severed parcel.

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