



# Staff Report

## Planning & Development Services – Development Engineering

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**Report To:** Committee of the Whole Meeting  
**Meeting Date:** May 10, 2022  
**Report Number:** PDS.22.033  
**Title:** Assumption Windfall Phase 3 Subdivision  
**Prepared by:** Dylan Stoneman, Development Engineering Reviewer

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### A. Recommendations

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THAT Council receive Staff Report PDS.22.033, entitled “Assumption Windfall Phase 3 Subdivision”;

AND THAT Council enacts a By-law to approve full acceptance and assumption of the Public Works constructed and installed within Registered Plan of Subdivision 16M-64, and the Public Water Works installed on Block 48 within Registered Plan of Subdivision 16M-42.

### B. Overview

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The Subdivision Agreement Between Windfall GP Inc. and the Town for Windfall Phase 3, dated November 22nd, 2018, provided for assumption of the subdivision, upon satisfaction of terms.

Windfall GP Inc. has requested Assumption, acknowledging there are outstanding terms that are described in more detail in this report. To account for the outstanding terms, and in consultation with Legal Services, the Town and the Developer are entering into a separate agreement letter with appropriate Securities for these outstanding items. This agreement is permitted by section 3.10 of the Subdivision Agreement.

Upon review by Development Engineering staff and by consultation with other Town departments, we confirm all agreement terms have been satisfied or will be otherwise managed by a separate agreement letter. It is appropriate for the Town to process the Assumption described below.

The Certificate of Final Acceptance was issued October 11<sup>th</sup>, 2021, and the subdivision was considered for Assumption at that time. However, the report was held back until the Town received Record Drawings on February 7th, 2022.

## C. Background

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Development Engineering staff confirm that the following Subdivision Agreement terms are outstanding, and their associated obligations are being transferred to a separate agreement letter with appropriate securities holdbacks:

1. The two-year maintenance period, which runs until October 2022, for the installed Phase 3 sidewalk and landscaping, is not expired (75% complete).
2. Installation of the following landscaping items that border the Windfall Phase 6A limits have been deferred to protect from damage: two (2) street trees on Red Pine St adjacent to future Lot 62, and the eastern half of private equestrian fencing on Block 48.
3. Installation of private trail signage has been deferred, as ownership of Windfall trails is under re-consideration. This is described in detail below.
4. Installation of plantings surrounding the Phase 3 Stormwater Management facility expansion have been deferred, as this facility is not subject to assumption in this report. This is described in detail below.

A portion of multi-use trail was constructed with Phase 3 on Block 48 of Plan 16M-42. Per the subdivision agreement terms, this is not a public trail nor public works being assumed by this report. This trail is currently part of the private trail system to be maintained by residents. However, there has been interest from the Town and residents for these trails to become Town public trails. This may be proposed in a future report. The associated private trail signage has been deferred until ownership is solidified. Securities for the signate will continue to be retained to ensure their installation, if required.

The Windfall Stormwater Management pond facility was originally constructed in Phase 1 and was expanded as part of Phase 3. The purpose of the Phase 3 expansion was to accommodate stormwater flows of Phases 3, as well as future Phases 4 to 6. Similar to past practice in Windfall and as anticipated, the Stormwater Management facility (including its Phase 3 expansion), are excluded from the works being assumed in this report. The full Stormwater Management facility, with the Phase 3 expansion and its required plantings, will be assumed in a future report with the Assumption of Phase 6; unless an early assumption for the Stormwater Management facility and/or trails is pursued.

It is noted for clarity that Block 48 of Plan 16M-42 contains public sanitary and storm sewer systems installed and previously assumed as part of Windfall Phase 1. Only the public water system in Block 48 is subject to assumption by this report.

The following terms/works are outstanding at the time of writing this report, but will be rectified before the report is presented to Council (or the report will be revoked):

5. Installation of temporary traffic barrier at dead end of White Oak Crescent at Phase 6A limit.
6. Remediation of one (1) streetlight, which has burned out since the inspection by Development Engineering in October 2021.
7. The separate agreement letter must be in effect.

Upon review by Development Engineering staff, and by consultation with other Town departments, all Developer obligations for Phase 3 of Subdivision Agreement and the overall Windfall Master Development Agreement, dated April 16th, 2013, have been met or otherwise dealt with in a separate agreement.

## **D. Analysis**

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Per section 3.12 of the November 22nd, 2018, Phase 3 Subdivision Agreement, after issuing a Certificate of Final Acceptance for the public works in the subdivision, a written report shall be submitted to Town Council to confirm:

- the Public Works have been installed in accordance with the requirements in the Subdivision Agreement;
- that all accounts in connection therewith have been paid;
- that all financial requirements have been met or will be met on the passing of an Assumption By-Law; and
- that Public Works are in the required condition to be assumed.

Once fulfilled, the Town is to pass an Assumption By-Law for the Public Works to transfer ownership and responsibility of maintenance and operation from the Developer to the Town.

Development Engineering confirms:

- the requirements of section 3.12 of the Subdivision Agreement (listed above) are satisfied or are being transferred to a separate agreement;
- the Certificate of Final Acceptance was issued October 11<sup>th</sup>, 2021, in consultation with Operations (Water, Wastewater, Roads and Drainage), Community Services (Trails) and Building Services;
- installation of Phase 3 landscaping, including 59 street trees, has been completed in general conformance with the accepted drawings (minus the outstanding works identified in section C above);
- home building within the Phase 3 subdivision is complete (total of 66 homes; 32 single detached and 34 semi-detached);
- the Town has received all approvals and documentation required to take over responsibility and operation of the subject infrastructure identified below; and
- and that all works have been satisfactorily completed as set out on the attached Acceptance / Assumption checklist (Attachment 2).

It is appropriate that the Town assumes the following approximate quantities of Public Works:

- 677 meters (m) of watermain and appurtenances, including seven (7) hydrants
- 471 m of sanitary sewer, including thirteen (13) maintenance holes
- 564 m of storm sewer, including twenty-six (26) maintenance hole/catch basin/ditch inlet structures
- 549 m of urban road, including fourteen (14) streetlights, curb, and sidewalk

These Public Works are located within the Town owned road right-of-way of Phase 16M-64 and within Block 48 of Plan 16M-42, as described below and illustrated in Attachment 1.

A draft Assumption By-Law is provided as Attachment 3 to initiate the following:

1. The following Phase 3 Subdivision Agreement works are hereby accepted and assumed: All Public Works in Registered Plan 16M-64, and the Public Water Works installed on Block 48 in Registered Plan of Subdivision Plan 16M-42.
2. White Oak Crescent and Red Pine Street, as shown on Registered Plan 16M-64, are hereby assumed for public use.

Staff recommends Council enacts this by-law.

## **E. Strategic Priorities**

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### **2. Organizational Excellence**

We will continually seek out ways to improve the internal organization of Town Staff and the management of Town assets.

## **F. Environmental Impacts**

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No adverse impacts are anticipated as a result of this report.

## **G. Financial Impacts**

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In accordance with section 3.10 of the Subdivision Agreement, the Town will continue retain securities for outstanding items No. 1 to 4 of section C of this report. The value of these items will be calculated by the Consulting Engineer to the satisfaction of the Town and documented in the letter agreement between the Town and the Developer.

The securities for item No. 1 will be released once the two-year maintenance period has expired in October 2022, certification is received, and found acceptable by the Town.

The securities for items No. 2 to 4 will be retained until they have been installed, their two-year maintenance period has expired, and they have been found acceptable.

Subject to Council authorization and enactment of the requisite Phase 3 Assumption By-Law, all other securities for this subdivision will be returned as stipulated in the Agreement.

The Town will now become responsible for all operation, maintenance and ultimate replacement costs associated with the Public Works within Registered Plan 16M-64 and Public Water Works in Block 48 of Registered Plan 16M-42. Future Town budgets will make allowance for these costs.

## **H. In Consultation With**

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A draft of this report was circulated to the following department heads on March 24, 2022, requesting comments be brought to the attention of Development Engineering by April 4, 2022. No concerns were identified during the comment period.

Shawn Carey, Director of Operations

Ryan Gibbons, Director of Community Services

Ruth Prince, Director of Finance and IT Services/Treasurer

Steve Conn, Fire Chief

Will Thompson, Director of Legal Services

## **I. Public Engagement**

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This subdivision was Draft Plan Approved on November 5th, 2011, and underwent a Public Meeting prior to its approval. In accordance with the Subdivision Agreement, the assumption of the Public Works within this subdivision is not subject to any further public process, save and except this report to Council and enactment of the Assumption By-Law (Attachment 3). However, as part of the regularly scheduled monthly meetings, Town staff notified the Windfall Condominium Board Presidents on November 18<sup>th</sup>, 2021, regarding this report and the anticipated assumption.

Comments regarding this report should be submitted to Brian Worsley,  
[developmentengineering@thebluemountains.ca](mailto:developmentengineering@thebluemountains.ca)

## **J. Attached**

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1. Assumption Figure Windfall Phase 3 Subdivision
2. Acceptance / Assumption Checklist
3. Draft By-Law Windfall Phase 3 Subdivision

Respectfully submitted,

Dylan Stoneman  
Development Engineering Reviewer

Brian Worsley  
Manager Development Engineering

For more information, please contact:

Brian Worsley, Manager Development Engineering  
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### **Report Approval Details**

Document Title:	PDS.22.033 Assumption Windfall Phase 3 Subdivision.docx
Attachments:	- Attachment 1.pdf - Attachment 2.pdf - Attachment 3.pdf
Final Approval Date:	Apr 27, 2022

This report and all of its attachments were approved and signed as outlined below:

#### **No Signature found**

**Dylan Stoneman - Apr 27, 2022 - 2:23 PM**

**Brian Worsley - Apr 27, 2022 - 2:30 PM**