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## **Council-In-Committee Meeting – June 12, 2025**

Subject: Bluegrass Estates Phase 3 – Petition to Eliminate Sidewalk from  
Subdivision  
Report Number: EIS-25-012  
Division: Environmental and Infrastructure Services  
Department: Engineering and Asset Management  
Ward: Ward 3  
Purpose: For Decision

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### **Recommendation(s):**

That Council receive staff report EIS-25-012 pertaining to the petition request to eliminate the sidewalk from the Phase 3 Bluegrass Estates Subdivision; and

Further that Council direct staff to proceed with the sidewalk installation per the Subdivision Agreement and County Policy EIS-12: Sidewalk Installations.

### **Executive Summary:**

Council received a petition from 14 residents within the 59-lot subdivision of Bluegrass Estates within Delhi at the May 13, Council-In-Committee Meeting. Council subsequently directed staff to bring back a report on this petition, which is the subject of this report.

The petition seeks to NOT have the required sidewalk installed within the subdivision; citing that it is unnecessary and is non-contiguous. Council Policy EIS-12 requires that new developments must include sidewalks along at least one (1) side of every local road. Proper warning clauses were included within the subdivision agreement such that purchasers were aware of the proposed sidewalk location at this time of lot purchase. While the new sidewalks will be non-contiguous with other area sidewalks, there is an opportunity within the 2030 reconstruction plan for Connaught Avenue to address this concern and connect this area to a contiguous sidewalk, improving walkability for this area.

Staff recommend that Council receive the petition and direct the Owner (Developer) to proceed with the sidewalk installation per the approved plans and Subdivision Agreement. Should Council wish to side with the petition request, this report contains an option that would allow for the removal of the sidewalk, subject to additional conditions.

## Discussions:

The Bluegrass Estates Phase 3 Subdivision was registered on July 7, 2023. Attachment A provides a location map of the Bluegrass Subdivision with the Delhi urban area along with the boundaries of Phase 1, 2 and 3. Phases 1 and 2 were built earlier in time.

There exists an agreement between the County and the Developer to construct a number of essential municipal services in order to support the plan and the residents that will occupy this area. This includes watermains, sewers, roads, streetlighting, and sidewalks. To ensure these services are delivered per the approved plan the County and Developer enter into an agreement that set out these obligations. In addition to the worded agreement, the Developer posted financial securities to ensure the obligations were met and if not, the County could draw upon these securities to complete the services or rectify them if not remediated by the Developer in a timely fashion.

The subdivision agreement also contains other specific details pertaining to sidewalk works; specifically:

- 1) Clause 3.09 – states that the lot grading cannot be certified until the sidewalk (if required) is installed.
- 2) Clause 10.11 – states that the Developer must publicly display a map depicting the accepted location of all sidewalks, trails, parks, schools, etc. prior to offering any lots for sale and provide an electronic version of the map to the County for its records.
- 3) Clause 10.12 – obliges the Developer to include a warning clause in every Purchase and Sale Agreement that informs the prospective purchaser of lots adjacent to a sidewalk, advising them of the potential for exposure to night lighting and noise that may occur on the sidewalk from time to time.

The intention of the above clauses is to ensure that the final lot grading is performed only after the sidewalk is installed and to ensure prospective purchasers are informed of the planned placement of a sidewalk across the frontage of their lot, particularly those choosing to buy a lot where a sidewalk is planned to be. This allows the prospective purchaser to make an informed purchasing decision.

With respect to lot grading, it is not uncommon for Developers to take a lot grading deposit from lot purchaser to ensure that the new owner does not alter the lot grading prior to the Developer achieving certification of the lot. The Developer will only release the Purchaser's security when the final lot grading is certified. In a case where a sidewalk needs to be installed, this final certification can only happen after the sidewalk is installed. Sidewalks, in some cases, are installed months or years after the Purchaser has moved in, sometimes resulting in calls for their release of security which is being held until the sidewalk is completed. While this does not appear to be the case here, it is a matter implicated in the delivery of sidewalks in new development areas.

In the case of the Bluegrass Phase 2 Subdivision, the Owner has posted financial securities in the total amount of \$52,025 for the installation of sidewalks within this plan of subdivision.

The Developer has installed the necessary underground services and built the roadways to base asphalt. Approximately 19 homes have been built and are occupied by new owners; 11 homes are built or being built but not yet sold and 29 lots remain vacant. At this point in time, the sidewalk has not yet been built.

The County has received a petition (Attachment B) from the area asking that the sidewalk NOT proceed. The petition represents 14 of the 59 lots within this subdivision (24%). That said, with only 19 of the area homes currently occupied, this represents 74% of the existing occupied lots. Staff are unaware of the number of lots sold and in the process of being built, however, there appears to be (based on a review of the site) approximately 11 newly built or in the process of being built homes (still unoccupied) and 29 lots that are vacant with no activity.

Attachment C provides a visual of the status of this development and an assessment of the petition.

The Subdivision is Phase 3 of the Draft Plan for this area. Phases 1 and 2 were completed earlier and while sidewalks were also required within the earlier phases, received petitions did result in their removal from these plans.

The received petition contains supporting commentary on the rationale for the request to remove the sidewalk. The rationale being that the sidewalk is unnecessary and that it does not connect the user to a complete system or points of destination. Attachment D provides a visual of this subdivision location, the nearest sidewalk connections and key points of destination near to this area.

Unfortunately, with the removal of the sidewalks from Phases 1 and 2 of the Bluegrass Subdivision, the area is not readily connected to the nearby park that currently resides within the plan area. In looking beyond the boundaries of the Phase 3 subdivision limits, this area is also not readily connected to other nearby sidewalks, the closest of which are on Church Street East (approximately 440m to the north) and Delcrest Avenue (approximately 650m to the west). If these external connections were made, then the sidewalk systems would be connected to nearby points of interest (schools, parks, downtown Delhi).

The staff position on this matter is guided by the Council Policy on Sidewalks and the Subdivision Agreement itself. The Council policy directs that all new subdivision plans shall have sidewalks installed on at least one (1) side of the street for local roadways and along both sides of the street for roadways with higher volumes of traffic (collectors/arterials). This plan of subdivision was developed and approved in adherence to this policy. The Subdivision Agreement also contained the appropriate clauses and conditions to allow purchasers to make an informed decision when

purchasing their lot. For these reasons, the staff recommendation is to proceed with the sidewalk per the approved plans.

It is noted that the County Policy on new sidewalks with plans of subdivision does allow for the application of a condition to have the Developer install sidewalks external to the plan of subdivision, where facilities are for the exclusive use of that subdivision and deemed necessary to provide a connection with other pedestrian-related facilities. The Bluegrass Estate Phase 3 Subdivision Agreement did not require the construction of any external sidewalks. Further to this, any externally constructed sidewalk would be of general public benefit and not solely for the exclusive use of this subdivision area. Staff are not aware of the origin or purpose of the 'exclusive use' criteria, however its inclusion in the policy could limit the imposition of conditions pertaining to external sidewalk construction. Should Council wish staff to revisit this aspect of the policy, staff could bring forward a separate report with a review of this matter in the Policy.

While the petition raises concern of noncontiguous sidewalk routes, staff note that the Capital Forecast includes the reconstruction of Connaught Avenue from Northern Avenue to Adams Avenue in 2030. The scope of this reconstruction project will include sidewalks along Connaught Avenue. This project presents an opportunity to extend sidewalk services toward the Bluegrass Estates Subdivision lands and the two (2) park blocks located adjacent to Arrowhead Way. This option would improve walkability in the area and enhance connections to the two (2) nearby park block areas which currently have no sidewalk access. A review of the potential to increase the project's scope could be undertaken as part of the capital forecast update. Should this project (and its increase scope) be completed in 2030, then the Bluegrass Phase 3 Subdivision would be supported by a contiguous sidewalk servicing this area.

Alternatively, should Council wish to concede to the wishes of the petition and direct staff to not proceed with the sidewalk construction in Bluegrass Phase 3, staff would suggest that the Developer be required to:

- 1) Pay cash-in-lieu of sidewalks to the extent noted as securities (as a minimum) within the Phase 3 Subdivision Agreement.  
*It should be recognized that cost to install sidewalks through the subdivision process tend to be less expensive than those built within older more established areas, as retrofit projects tend to encounter private boulevard conflicts (private landscaping, trees) and boulevard driveway enhancements (concrete or interlock driveway aprons) which tend to drive up construction costs.*
- 2) Provide a written letter authorizing the use of the cash-in-lieu of sidewalk funds for any location within the Delhi urban area so deemed appropriate by Council
- 3) Provide a written letter to Norfolk County confirming that every purchaser (or prospective purchaser) of a lot within this subdivision which was to have a sidewalk built abutting it, has been informed in writing that the sidewalk is no longer being built and that it may be built at a future point in time.

While staff have set out an alternative option for Council to consider that would support the petitioners wishes (i.e. no sidewalks built within Phase 3 at this point in time); staff remain of the opinion that sidewalks should be built per the approved plan.

#### **Financial Services Comments:**

There are no direct financial implications as a result of the staff recommendation in this report if it is approved.

The alternative option, if approved, would result in cash-in-lieu of sidewalks being collected from the Developer by the County, to be used on future sidewalk projects within the Delhi Urban Area.

Regarding the matter of connecting the subdivision, Council may direct staff to investigate constructing capital projects at any time. Staff generally action this direction by including a recommended amount, timing, and/or scope for such a project in the upcoming 10-Year Levy Capital Plan so that Council could deliberate it with a full understanding of the County's capital resources at that time. Currently, no capital project exists in the Final 2025-2034 Levy Capital Plan to connect existing sidewalks to the Bluegrass Estates Subdivision, however, a project could be added or the scope of forecasted projects such as the Reconstruction of Connaught Ave could be amended to accomplish the intended outcome.

#### **Interdepartmental Implications:**

N/A

#### **Consultation(s):**

The residents of the area have presented their request within the form of a petition. The staff report herein is being presented to Council to allow Council to make an informed decision on this matter.

#### **Strategic Plan Linkage:**

The recommendation set out in this report aligns with the Build Norfolk and Connect Norfolk priority areas of the Strategic Plan. The sidewalk serves to improve the accessibility of the area and is in complete alignment with the County Policies pertaining to responsible growth in Norfolk.

#### **Attachment(s):**

- Attachment A – Location of Bluegrass Estate Subdivision
- Attachment B – Notice of Construction and Received Petition
- Attachment C – Petition Assessment
- Attachment D – Area Sidewalk Locations

**Approval:**

Approved By:  
Al Meneses, CAO

Reviewed By:  
Andrew Grice, General Manager  
Public Works

Prepared By:  
Darnell Lambert, Director  
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