

## REPORT

### Planning and Development Council

Meeting Date: May 16, 2022

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**FROM:** Legal Department

**DATE:** May 3, 2022

**SUBJECT:** Public Meeting - Settlement Offer in Ontario Land Tribunal Appeal of By-law 2021-154 (315 Glenashton Drive), OLT 22-002121 (May 16, 2022)

**LOCATION:** 315 Glenashton Drive

**WARD:** Ward 5

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#### RECOMMENDATION:

That comments from members of the public with respect to the settlement offer submitted by The Ashton Inc. be received prior to Council making a decision with respect to the offer or the town's position at the hearing of the appeal through the related confidential report on this agenda.

#### KEY FACTS:

The following are key points for consideration with respect to this report:

- 315 Glenashton Drive is the portion of the former public works site at the northwest corner of Glenashton Drive and Trafalgar Road. The property was recently sold to The Ashton Inc. (the "owner").
- The Livable Oakville Official Plan permits development in the form of 4 to 6 storey buildings in this location with an additional 4 storeys permitted through bonusing (for a total of 10 storeys).
- On February 8, 2021, Council passed a zoning by-law amendment ("By-law 2021-021") that was intended to restrict the height of future development on the site to six storeys.
- As a result of last minute changes to the draft zoning by-law prior to approval, By-law 2021-021 as passed provided for a height limit of 31 m with no cap on the number of storeys.
- While By-law 2021-021 as passed was based on a 6 storey concept with rooftop amenity space above the sixth storey, a 9 storey building with different ceiling heights would fit within the height limit.

- On December 21, 2021, Council passed By-law 2021-154 which limited the height of any building on the site to six storeys and 31 m (inclusive of rooftop mechanical equipment, and limited amenity space).
- The owner of 315 Glenashton has appealed the town's approval of By-law 2021-154 to the Ontario Land Tribunal (the "OLT" and "OLT Appeal" respectively).
- The town received an offer to settle the OLT Appeal based on the approval by the OLT of a revised by-law that would permit up to 3 additional storeys through bonusing.
- The purpose of this report is to allow Council to receive comments from members of the public prior to considering the offer to settle. A confidential report providing legal advice with respect to both the settlement offer and options for proceeding to a hearing appears elsewhere on this agenda. Any Council decision will be made in the context of that report.
- Comments with respect to planning matters contained in this report provide a summary of statements from past studies, staff reports and the planning justification report submitted by the owner and are intended to identify relevant issues. These comments should not be interpreted as opinions on the planning merits of the proposal on behalf of the town.
- As of the date of this report, a hearing date has not been set for this matter.

## **BACKGROUND:**

315 Glenashton is a property at the corner of Trafalgar Road and Glenashton Drive which had previously formed part of the town's public works' site (formerly 2264, 2274 and 2320 Trafalgar Road).

The former public works site had been subject of a master planning exercise that had resulted in the approval of an Official Plan amendment ("OPA 25") on June 11, 2018. OPA 25 resulted in new policies for the area permitting buildings ranging from a minimum of 4 storeys to a maximum of 20 storeys (16 storeys + 4 additional storeys permitted through bonusing) at various locations throughout the area. OPA 25 also included policies setting minimum intensification targets for both the entire public works site and specific areas within the site. A location for a new park at the corner of Glenashton Drive and Taunton Road was also identified and incorporated into the policies of the Official Plan.

Copies of the master plan and related staff reports are available on the town's website at <https://www.oakville.ca/business/former-public-works-site-master-plan.html>.

Former Public Works Site Master Plan

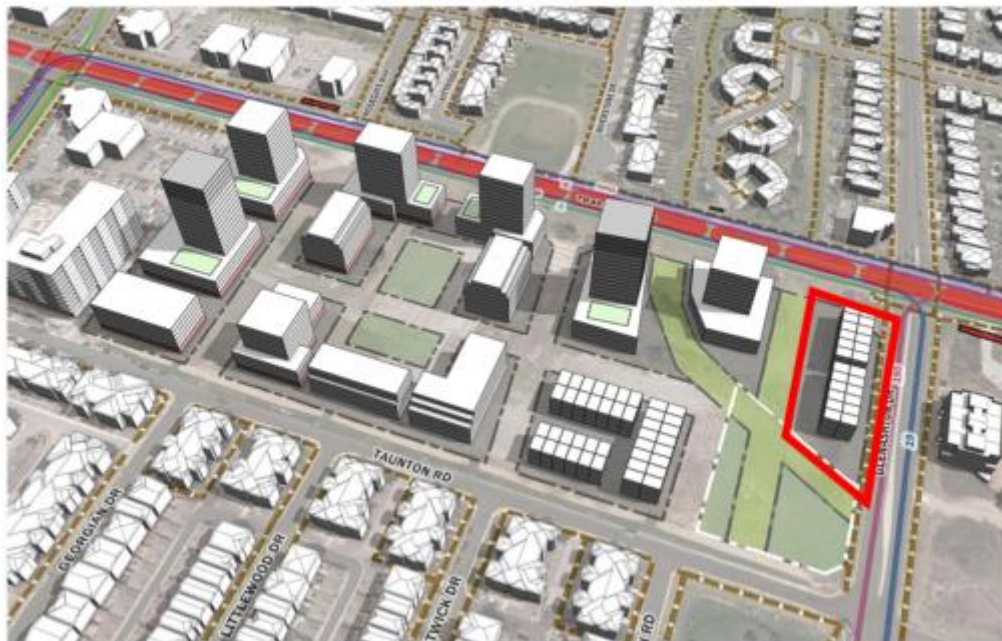


Figure 1 – Excerpt from Master Plan showing locations of the subject lands (outlined in red) and future park (outlined in white).

For this particular property, the master plan and related Official Plan policies contemplated development in the form of 4-6 storey buildings. The master plan indicates that the purpose of the height limit was to achieve transition to surrounding areas. The policies of OPA 25 also allowed for consideration of up to 4 additional storeys of height (for a total of 10 storeys) in exchange for public benefits, through the former bonusing provisions of section 37 of the *Planning Act*. Those provisions allowed municipalities to include provisions in zoning by-laws that authorize additional height or density in appropriate locations in exchange for community benefits. Section 37 of the *Planning Act* has been amended to remove this authority effective September 18, 2022. By-laws passed prior to that date may continue to provide for added height or density in exchange for benefits.

Council has previously considered reports related to the zoning by-law regulations for the site on February 8, 2021 (By-law 2021-021) and December 22, 2021 (By-law 2021-154). Links to these reports are provided on the town's website at [da - 2264, 2274, 2320 Trafalgar Road \(oakville.ca\)](#). While the Official Plan policies were amended through OPA 25 in 2018 to reflect the Master Plan, updates to the Zoning By-law were deferred to allow for adjustments to reflect particular development proposals. Prior to By-law 2021-021, the lands were zoned H-19-MU4, sp. 307 and remained subject to the maximum heights of 41 m and 12 storeys applicable to the balance of the site based on previous planning policies.

By-law 2021-021 was passed prior to the sale of the lands for the purpose of implementing the master plan. By-law 2021-021 as originally prepared included a height limits of 22 m and 6 storeys. An additional 6 m for a mechanical penthouse would be permitted under the standard provisions of the Zoning By-law to allow for an elevator shaft. Prior to the Council meeting the draft by-law was amended based on discussions with the future owner related to a six storey proposal which included increased ceiling heights and amenity space above the sixth storey. The height of the building excluding the amenity space was approximately 25 m. The height with the amenity space and elevator shaft was approximately 31 m. By-law 2021-021 limited the height to 31 m but did not include a limit on the number of storeys. Despite the original intent, By-law 2021-021 as passed would permit a 9 storey building, with an additional 6 m for rooftop mechanical equipment permitted in accordance with the standard provisions of the town's Zoning By-law. By-law 2021-154 was passed in December, 2021 to clarify and implement the original intent.

The owner has submitted a settlement offer that would allow for the construction of a 9 storey building meeting the 31 m height limit imposed by By-law 2021-021. Since public benefits would be provided for the three of the nine storeys, the proposal would also conform to the policies with respect to height in the Official Plan. A cash payment is proposed by the owner that would have to be applied to eligible projects in the immediate area. This payment could be used towards the development of the park at the corner of Glenashton Drive and Taunton Road. Plans, drawings, shadow studies, a traffic study and a planning justification report were submitted with the offer and are posted on the town website at the link provided above. Excerpts from the drawings and the planning justification report are also attached as appendices to this report.



Figure 2 – View from the corner of Trafalgar Road and Glenashton Drive.

**COMMENT/OPTIONS:**

The purpose of this report is to allow Council to receive comments from the public with respect to this matter prior to considering both the settlement offer and the advice provided by legal counsel through the confidential report.

Options available to Council range from accepting the settlement offer to opposing the appeal at the Ontario Land Tribunal. Additional concessions may be achievable through negotiations but are not guaranteed. If Council is fixed on a six storey maximum, additional amendments to the by-law may be considered at a later date to impose more specific height restrictions to enforce that intent. Appeals to any such amendments should be expected.

While information related to the history of this matter is provided for the sake of transparency, both the Ontario Land Tribunal and Council are required to base their decisions on the application of planning policies and principles. Subject to compliance with the requirements of the *Planning Act*, the focus will be on the planning merits of the proposed development, rather than the process that led to the consideration of the proposal. This involves an assessment of consistency or conformity with applicable policies or plans at the provincial, regional and local level and the application of principles of good planning.

The comments with respect to planning matters in this report are intended to identify relevant policies and provide summaries of statements in related studies and staff reports or the planning justification report submitted by the owner. These comments are for the purpose of identifying relevant policies and principles that may assist Council and members of the public in understanding the issues but do not represent planning opinions with respect to the merits of the proposal on behalf of the town.

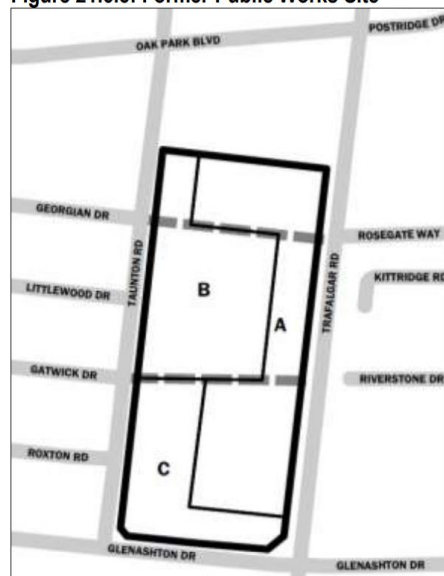
Relevant policies at the provincial and regional level (Provincial Policy Statement, Growth Plan for the Greater Golden Horseshoe, and Region of Halton Official Plan) are described in the staff report to the February 8, 2021 Council meeting and the planning justification report submitted by the owner.

At the local level, the public works site including this property is within both the Uptown Core Growth Area and the Trafalgar Road Corridor identified in the Livable Oakville Plan. These areas are among the nodes and corridors which are the focus of the town's growth management strategy described in the town's Urban Structure (Part 3 of the Livable Oakville Plan). The policies of the Uptown Core are currently under review as part of a larger project to review and update the Official Plan. While other factors may play a role in determining whether additional intensification could be accommodated on this site, the location of the lands within these areas and the on-going pressure to accommodate additional population make

it appropriate for Council to at least consider whether this site has the potential to accommodate additional growth within the context of existing policies.

In addition to the height restrictions described above, the lands are within Area C Identified in Figure 21.6.5 of the Livable Oakville Plan. This area also includes the proposed park and adjacent lands on Taunton Road. Policy 21.6.5 b) iii of the Livable Oakville Plan requires a minimum of 150 residential units within Area C. Materials submitted by the owner indicate that the proposed development would result in 149 units.

**Figure 21.6.5: Former Public Works Site**



As noted in the background section of this report, the height limits in the Official Plan were intended to provide for an appropriate transition to the surrounding area. The planning justification report submitted by the owner includes descriptions as to how shadowing, massing and other matters related to transition are addressed by the proposed development through step backs and other elements of the proposal.

The dispute with respect to zoning relates to height and its impacts. Other regulations in By-law 2021-021 with respect to setbacks at grade, parking ratios and other matters were not appealed and were not changed by By-law 2021-154 which is under appeal. Other regulations would not be subject to change unless changes were necessary to manage any additional height that may be authorized through a settlement.

**CONSIDERATIONS:**

**(A) PUBLIC**

Staff have provided notice to members of the public and public agencies based on the notice that would have been required for a public meeting under the *Planning Act*. Individuals who had previously made submissions to Council on related by-laws were provided with notice.

**(B) FINANCIAL**

The financial impacts of this matter are discussed in the related confidential report. Funds obtained through bonusing could be used to advance or improve works related to the park at the corner of Glenashton Drive and Taunton Road. Funds related to portions of the work are included in the 2023 capital budget.

**(C) IMPACT ON OTHER DEPARTMENTS & USERS**

Members of the Planning Services Department have been consulted to ensure the accuracy of information provided with respect to policies and details of the development. The Parks & Open Space Department has been consulted with respect to anticipated timing and requirements for the park in the area.

**(D) CORPORATE STRATEGIC GOALS**

This report addresses the corporate strategic goal(s) to:

- Achieve accountability and transparency by seeking and considering input from the public in decisions related to planning matters.

**(E) CLIMATE CHANGE/ACTION**

Climate change is a factor to be considered in decisions related to optimizing the amount of intensification in the town's growth areas. Matters related to climate change would also be considered by members of the Planning Services Department in reviewing any site plan in the event of an approval. Optimizing the level of intensification adjacent to transit corridors supports this initiative.

**APPENDICES:**

Appendix A - Excerpts from Drawings/Plans

Appendix B – Planning Justification Report provided by the Owner

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Submitted by:

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