

## REPORT

### Council

Meeting Date: June 19, 2023

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**FROM:** Legal Department

**DATE:** June 6, 2023

**SUBJECT:** Hydro Easement Beside Athabasca Pond – June 19, 2023

**LOCATION:** Athabasca Pond

**WARD:** Ward 7

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#### RECOMMENDATION:

That staff be authorized to grant a hydro easement to Oakville Hydro on Town land beside Athabasca Pond shown as Part 1 on the draft plan attached to this report as Appendix “B”, to service the development on Blocks 7 and 8 on Plan 20M-1211, provided the owner of those development blocks pays the Town fair market value compensation for the easement to the satisfaction of the CAO and Town Solicitor.

#### KEY FACTS:

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

- MC Oakvillage LP (the “**Developer**”) is the owner of Blocks 7 and 8 on Plan 20M-1211 (the “**Developer’s Lands**”) which fronts on Trafalgar Road just North of Dundas Street adjacent to the Athabasca Pond.
- The Developer and Oakville Hydro prefer the hydro service to run behind the development blocks beside the Town’s storm pond as shown on Appendix “A”.
- Oakville Hydro will require a 3.0 metre easement from the Town over the storm pond block shown as part 1 on the draft plan attached to this report as Appendix “B” (the “**Easement Lands**”).
- Although the Town does not normally encumber its parkland, an underground easement will not materially impact the intended use of these lands.
- Staff recommend granting Oakville Hydro an easement over the Easement Lands for the hydro infrastructure needed to service the Developer’s Lands.
- The Developer will be required to pay the Town fair market value for the easement based on an appraisal and repair any damage to the Town’s lands caused by the installation.

**BACKGROUND:**

MC Oakvillage LP is the owner of Blocks 7 and 8 on Plan 20M-1211 (the “Developer’s Lands”) which fronts on Trafalgar Road just North of Dundas Street adjacent to the Athabasca Pond. As a result of site constraints and the timing of the Region’s road widening of Trafalgar Road in 2025, Oakville Hydro and the Developer prefer the hydro service to be located outside of the development blocks. The proposed location is within the Town’s storm pond block (Athabasca Pond).

Oakville Hydro requires a 3.0 metre easement for its hydro service that runs parallel to Trafalgar Road within the Town’s storm pond block as shown outlined on Appendix “A”. The Easement Lands are 712 square metres in area and shown in more detail as Part 1 on the draft plan attached as Appendix “B”.

Parks staff were made aware this easement might be needed, so the path that is impacted by the easement has not yet been improved, as it was in other sections of the path. The Developer will be responsible for repairing any damage done to the Town lands by the installation of the hydro infrastructure, and improving the pathway once the hydro infrastructure is installed. Based on these circumstances, Parks staff is ok with the infrastructure being placed with the storm pond block.

By-law 1995-171, as amended by By-law 2010-104, sets out procedural requirements related to the disposition of an interest in land. For an easement, the requirements as modified by By-law 2010-104 require a public report:

- Identifying the parcel of land and the interest proposed to be transferred;
- Setting out the reason why the property may be considered surplus to the needs of the municipality; and
- Advising that at least one appraisal of market value has been obtained.

**COMMENT/OPTIONS:**

The purpose of this report is to fulfill the procedural requirements necessary to allow Council to consider granting a hydro easement to Oakville Hydro over the Easement Lands.

The Athabasca Storm Pond is considered Town parkland. Although the Town normally does not encumber its parkland, exceptions have been made in the past for underground services, since these do not materially interfere with the public’s use of the land. Staff are recommending an exception be made in this case to allow the development on the Developer’s Lands to proceed. There will be some disruption to the Easement Lands when the hydro infrastructure is installed, but the Developer will be responsible for rehabilitating the lands after the installation and improving the pathway. After the hydro infrastructure is installed, the easement should not have a material impact on the public’s use of these lands.

The Developer has commissioned an appraisal for the market value of the easement. If Council approves the granting of this easement, staff will work with the owner to come to an agreement on the compensation based on the appraisal in an amount satisfactory to the CAO and Town Solicitor.

**CONSIDERATIONS:**

**(A) PUBLIC**

The inclusion of this report in the Council agenda will provide public notification.

**(B) FINANCIAL**

The Developer will be responsible for all costs to complete the transaction. The easement price will be valued at a fair market rate based on an appraisal and the proceeds deposited in the Town's general capital reserve.

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

The Parks and Open Space and Planning Departments were consulted in the preparation of this report.

**(D) CORPORATE STRATEGIC GOALS**

This report addresses the corporate strategic goal to be the most livable town in Canada.

**(E) CLIMATE CHANGE/ACTION**

N/A

**APPENDICES:**

Appendix A – Aerial Map showing the location of the Easement Lands

Appendix B – Draft Plan showing the Easement Lands

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