

REPORT

Planning and Development Council

Meeting Date: July 10, 2023

FROM: Planning Services Department

DATE: June 27, 2023

SUBJECT: Removal of Holding Provision - Jack Stryc and Diane Costa, 47 Nelson Street - ZH 03.23, By-law 2023-078

LOCATION: 47 Nelson Street

WARD: Ward 1

Page 1

RECOMMENDATION:

1. That the application (File No.: ZH 03.23) submitted by Jack Stryc and Diane Costa to remove the Holding Provision "H42" from the lands known as 47 Nelson Street, be approved.
2. That By-law 2023-078, a By-law to remove the Holding "H42" Provision from Zoning By-law 2014-014, as amended, from the lands known as 47 Nelson Street, be passed.

KEY FACTS:

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

- The site was subject to a previous Zoning By-law Amendment and Draft Plan of Subdivision (one lot) application that was approved by Council at the May 13, 2019 Planning and Development/Council meeting.
- By-law 2019-029 included a holding provision, H42, related to the protection of the four street trees and the neighbouring trees.
- Development of the site, prior to passage of Bill 23, required site plan approval, as cited in the holding provision. However, with the passage of Bill 23, site plan approval is no longer applicable since the development is less than 10 units.
- Protection of the four town street trees and the neighbouring trees have been addressed to the satisfaction of Town staff. The applicant is now proposing to use the existing driveway area for access to an underground garage (below

the four proposed townhouse units) and has modified the footprint of the proposed building to protect the northerly abutting trees.

- Town staff have no objection to the removal of the H42 Holding Provision.

BACKGROUND:

In December 2018, the town received a Zoning Bylaw Amendment and Draft Plan of Subdivision application related to the development of 47 Nelson Street for four street based townhouse units. Each unit was proposed to have a separate driveway.

The Draft Plan of Subdivision was to create a one-lot subdivision. This would allow for the future division into four free-hold lots following the construction of the units by Part Lot Control.

As part of that application process, town staff and the public raised concerns related to the protection of the four street trees and the northerly abutting trees.

The Zoning Bylaw Amendment and Draft Plan of Subdivision application was approved on May 13, 2019. The approved Zoning By-law Amendment included a holding provision, H42, related to tree protection. The draft plan of subdivision received conditional approval for a 3-year timeframe. This conditional approval lapsed, as the conditions were not addressed in the 3-year timeframe. A new draft plan of subdivision is not required since the proposed tenure will be condominium.

Proposal

The applicant is requesting to remove the Holding “H42” Provision on the subject lands.

Location

The subject lands are municipally known as 47 Nelson Street and are located on the east side of Nelson Street, south of Marine Drive.

COMMENTS:

Removal of Holding “H” Provision

As set out in By-law 2019-029, the “H42” symbol can be removed when the following condition has been satisfied.

The “H” symbol shall, upon application by the landowner, be removed by Town Council passing a By-law under Section 36 of the Planning Act. The following condition(s) shall first be completed to the satisfaction of the Town of Oakville:

a) That the applicant through the Site Plan Control process demonstrate to the satisfaction of Town staff, that development of the site can occur without adversely impacting the root system of the four street trees and neighbouring trees.

As mentioned previously, Site Plan approval is no longer applicable to the development of this site with the passing of Bill 23. Notwithstanding this, staff are reviewing tree protection matters as part of the removal of the holding provision.

Figure 1 below reflects an excerpt from the proposed tree preservation plan. It reflects both the existing situation (detached dwelling with separate garage – the two stars), the outer limit of the proposed townhouses (blue arrow) and the proposed driveway location (yellow arrow) overtop a portion of the existing driveway.

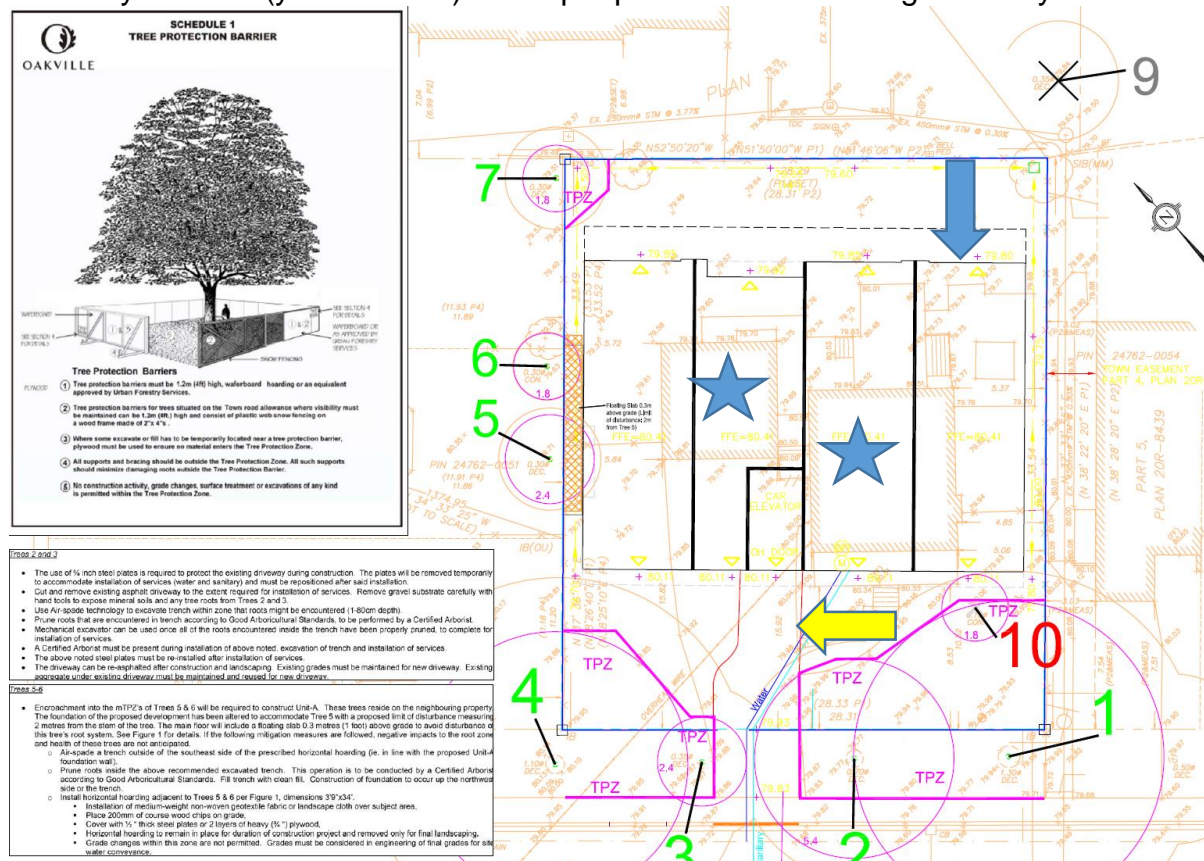


Figure 1 – Tree Preservation Plan

The applicant revised the development plan submitted as part of the previous Zoning By-law Amendment application to address tree preservation matters by consolidating the four separate driveways originally proposed into one; which overlaps the existing driveway, and provides access to an underground parking area; via a vehicle elevator.

The proposed driveway at the street edge and property limit is proposed at approx. 5 m and includes a small waiting area, while the car elevator is in use. The waiting area does not constitute a parking space. The driveway will narrow to a single car driveway (approx. 3.6 m), as you get closer to the building and proposed vehicle elevator.

Water and wastewater services will also be located under the proposed driveway to limit disturbance on existing trees.

As noted in the Tree Inventory and Preservation Plan report and Tree Inventory and Preservation Plan, a Certified Arborist must be present during the excavation of trench and installation of services. Heavy steel plates are proposed to protect the existing driveway area during construction. These plates will only be removed for the installation of the underground services and then re-installed. Air-spade technology will be utilized within the root zone (1-80 cm depth). Once the root zone has been air-spaded and zone pruned using good arboricultural standards by a certified arborist, only then can a mechanical excavator continue excavation for municipal services. The new driveway will be re-asphalted after construction with existing grades maintained.

With regard to the proposed protection of tree 5 on the northerly abutting property, the Arborist report states:

“The foundation of the proposed development has been altered to accommodate Tree 5 with a proposed limit of disturbance measuring 2 metres from the stem of the tree. The main floor will include a floating slab 0.3 metres (1 foot) above grade to avoid disturbance of this tree’s root system”.

Attached, as seen on Figure 2, are the garage/lower level and main level floor plans, which considers the protection of tree 5 as noted in the Arborist report. The hatched area on the main level is an area for potential trimming of the tree.

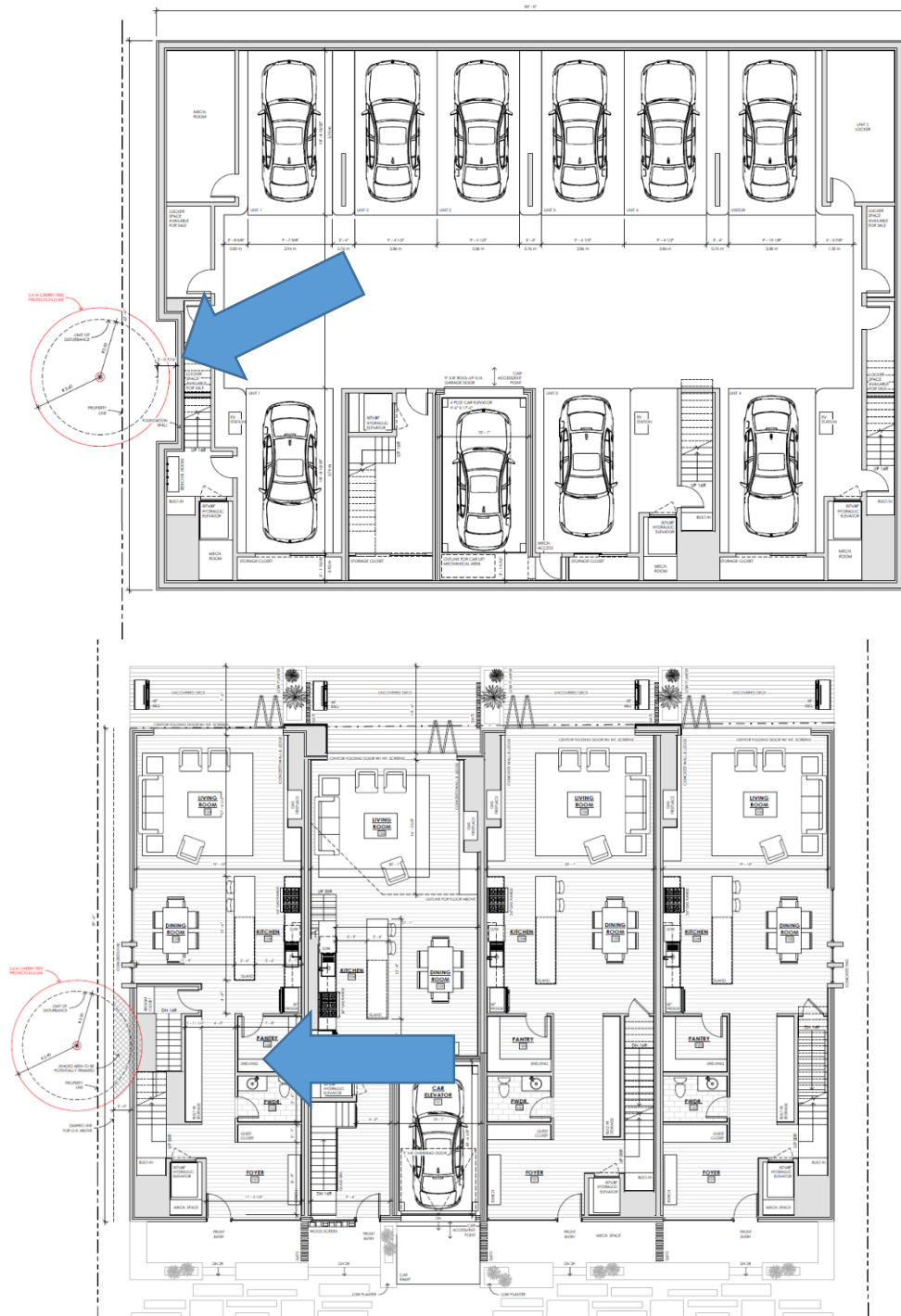


Figure 2 – Lower and Main Floor Plans

In addition to the above, tree protection fencing will also be installed.

Staff have reviewed the revised Arborist report prepared by Kuntz Forestry Consulting Inc. dated June 16, 2023 and associated Tree Inventory and Preservation Plan dated June 16, 2023. Both documents are deemed acceptable.

Implementation

Following the removal of the holding provision, the proponent may proceed to the building permit process. Prior to the issuance of a building permit for the construction of the four units, a variance application will be necessary for the reduced driveway width to the underground parking. The Zoning Bylaw requires 5.5 metres for two-way access.

Following construction of the units, a draft plan of condominium application will be required to address the tenure and responsibilities of the condominium corporation.

CONCLUSION:

Staff is satisfied that the requirements for the removal of the Holding Provision 'H42' as it applies to the subject lands (47 Nelson Street) have been satisfied. Staff recommends approval of the subject application and pass By-law 2023-078.

CONSIDERATIONS:

(A) PUBLIC

Notification of the intention to pass an amending By-law to remove the Holding "H42" Provision has been provided pursuant to Section 36(4) of the *Planning Act*. There were no comments received from the public with respect to this application.

(B) FINANCIAL

There are no financial matters related to this application.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

The application was circulated to internal and external departments and agencies for comment and no concerns raised.

(D) CORPORATE STRATEGIC GOALS

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

- be the most liveable town in Canada

(E) CLIMATE CHANGE/ACTION

- The proposed development generally complies with the sustainability objectives of Livable Oakville.

APPENDICES:

Appendix "A": By-law 2023-078

Prepared by:

Robert Thun, MCIP, RPP

Senior Planner, Current Planning – West District

Recommended by:

Paul Barrette, MCIP, RPP

Acting Manager, Current Planning – West District

Submitted by:

Gabriel A.R. Charles, MCIP, RPP

Director, Planning Services