



OAKVILLE

REPORT

Council Meeting

Meeting Date: December 18, 2023

FROM: Planning Services Department

DATE: December 12, 2023

SUBJECT: Recommendation Report, Zoning By-law Amendment and Draft Plan of Subdivision, Palermo Village Corporation, File No.: Z.1331.02, 24T-23002/1331

LOCATION: 3069 Dundas Street West and 3278 Regional Road 25

WARD: Ward 7

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RECOMMENDATION:

That the proposed Zoning By-law Amendment and Draft Plan of Subdivision applications submitted by Palermo Village Corporation (File No.: Z.1331.02 and 24T-23002/1331), be refused for the reasons outlined in the report from Planning Services dated December 12, 2023.

KEY FACTS:

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

- **Proposal:** Palermo Village Corporation ('PVC') submitted a Zoning By-law Amendment and Draft Plan of Subdivision application to develop 47 hectares of land with a mix of residential, institutional, commercial, employment, natural heritage and open space uses. An application summary is discussed further in this report.
- **Location:** The subject site is located north of Dundas Street West, centred on the Dundas Street West and Regional Road 25 intersection, and extends to Highway 407.

- **Policy Context:** Palermo Village has been the subject of detailed, comprehensive land use studies by the Town. The most recent comprehensive land use study was completed this year¹ and adopted by Council through OPAs 34, 37 and 38. However, the applicant appealed all the foregoing to the Ontario Land Tribunal ('**OLT**'). As a result and given the previous policy framework was also appealed (portion of OPA 289 - NOWSP and OPA 306), a complete policy regime does not currently exist for the Palermo Village growth area, north of Dundas Street. The in-effect policies are the 1984 Official Plan and Official Plan Amendment 198 which simply identifies the area as a "Special Study Area" requiring the lands to be considered comprehensively through a secondary plan process prior to development.

Instead of filing an Official Plan amendment, the applicant has chosen to rely on achieving changes to the Official Plan through its OLT appeals of OPA 34, 37 and 38. This has resulted in a fundamental issue in processing these applications due to lack of land use policy since applications can only be approved if they conform with the in-force or adopted policies of the Official Plan. The applications deviate from the adopted policies in several significant ways described in this report and do not provide the type of comprehensive analysis required to assess changes to the adopted policies.

While staff also have some concerns about the completeness of the application, decisions of the OLT related to completeness of applications are retroactive in the event that the application is determined to be complete. This scenario would result in the Town having to refund the Zoning By-law Amendment application fee.

Given the foregoing, and for the reasons outlined in this report, it is staff's recommendation to refuse both applications. As a result, it is noted that no fees will be refunded. It is anticipated that the applicant will appeal this decision and that the appeal would be consolidated with the appeals of OPA 34, 37 and 38.

- **Public Consultation:** PVC initiated a public engagement program comprised of a website, direct mailouts, use of social media, on-line survey, and a virtual community meeting on July 25, 2023. No public meeting before Council was held, nor has a notice for this meeting been circulated.

PURPOSE:

The purpose of this report is to introduce this proposal to Council and provide a recommendation on the submitted Zoning By-law Amendment and Draft Plan of

¹ As approved by Halton Region.

Subdivision applications by PVC which seeks permissions to develop approximately 47 hectares of land located at the intersection of Dundas Street West and Bronte Road/Regional Road 25 and extending to Highway 407.

BACKGROUND:

Planning Act

The *Planning Act* is provincial legislation that sets out the framework for land use planning in Ontario. It describes how land uses may be controlled, and who may control them. Amongst other matters, the *Planning Act* provides the basis for:

1. integrating matters of provincial interest into municipal planning decisions by requiring that all decisions be consistent with the Provincial Policy Statement and conform/not conflict with provincial plans;
2. preparing official plans and planning policies that guide future development;
3. regulating and controlling land uses through zoning bylaws; and,
4. dividing land into separate lots for sale or development through a plan of subdivision.

Pursuant to this framework, an amendment to the Zoning By-law can only be approved if it conforms to the official plan, which is in effect or an amendment that has been adopted but is not yet in force.² For example a zoning by-law amendment can be approved with an accompanying official plan amendment. However, in this case, an accompanying official plan amendment has not been submitted. The OPAs for this area which would provide the land use context for a Zoning By-law were appealed by the applicant. Furthermore, the Zoning By-law amendment application would not conform to OPA 34, 37 or 38 because the proposed land uses differ from the approved OPAs. On this basis, and for the reasons outlined in this report, it is staff's opinion that the Zoning By-law amendment application, as submitted, does not conform to the Official Plan (in effect or under appeal policies).

Likewise, when considering a draft plan of subdivision, one of the criteria which 'regard shall be had' pursuant to Section 51(24) (c) of the *Planning Act*, is whether the plan of subdivision conforms to the official plan. The plan of subdivision does not conform to the Official Plan (in effect or under appeal policies).

² (Section 24(2), Planning Act) - Pending amendments

(2) *If a council or a planning board has adopted an amendment to an official plan, the council of any municipality or the planning board of any planning area to which the plan or any part of the plan applies may, before the amendment to the official plan comes into effect, pass a by-law that does not conform with the official plan but will conform with it if the amendment comes into effect. 2006, c. 23, s. 12.*

Town of Oakville Official Plan

The 1984 Oakville Official Plan, OPA 198 and the North Oakville West Secondary Plan established the current in effect policy regime to guide development for the subject lands. Currently, the portion of the North Oakville West Secondary Plan that affects the subject property, related to OPA 289 (NOWSP) and Official Plan Amendment 306, are also appealed to the OLT, and as such the respective policies are not in force. There is currently no in-effect policy for the subject lands under the Livable Oakville Official Plan, the only in-effect policy for the subject lands is established by OPA 198. OPA 198 designated the lands as a Special Study Area.

As part of the town's ongoing Official Plan Review, the North Oakville West Secondary Plan review and the Palermo Village Growth Area Review was adopted by Town Council in March 2021 as Official Plan Amendment 34 (OPA 34) which includes the policies for the bringing the North Oakville West Secondary Plan into the *Livable Oakville* Plan, and an expanded Palermo Village growth area.

On July 5, 2021, Planning and Development Council adopted Official Plan Amendment 37 (OPA 37), which provides area-specific parking and cultural heritage policies for the expanded Palermo Village growth area. The same policies were originally proposed through OPA 34 but deferred by Council resolution on March 22, 2021.

OPA 34 and 37 were approved, with modifications by Halton Region on March 13, 2023; however, both were subsequently appealed to the Ontario Land Tribunal (OLT) by PVC and are not in force and effect.

In addition, on July 5, 2021, Planning and Development Council adopted an Official Plan Amendment (OPA 38), which includes the lands north of Palermo up to Highway 407. The previously approved 'North West Area' policies from OPA 34 would apply to such lands. Halton Region approved OPA 38 but was subsequently appealed to the OLT, also by PVC.

Zoning By-law 2009-189 (North Oakville Zoning By-law)

The subject lands are zoned Future Development 'FD' which permits buildings and structures that legally exist on the property. See Appendix A for the full regulations.

APPLICATION SUMMARY

Applicant/Owner: Palermo Village Corporation

Purpose of Application(s): The purpose of the applications is to amend the Town's Zoning By-law and seek approval of a draft plan of subdivision to develop the above

referenced subject lands for a range and mix of residential, institutional, commercial, employment, Natural Heritage System and open space uses.

In addition, the submission provides additional context to the applicant's appeal of OPA 34, 37 and 38 to the OLT.

The proposed Zoning By-law Amendment would implement the proposed development and introduces a new site specific Palermo Urban Core (PUC) and sub-zones, a site specific Park zone regulation, together with the Stormwater Management Facility and Natural Heritage System zones. Various regulations relating to the permitted uses, floor space index/density, yard requirements, building heights, and modified parking requirements, amongst others, are proposed.

Effect of Application(s): The effect of the applications would be the creation of the following:

- Three mixed use blocks;
- Four high density residential condominium blocks;
- Four medium density residential condominium blocks;
- 28 single detached dwelling;
- A transit terminal block;
- A 2.25 ha neighbourhood park;
- A portion of a village square;
- Part of a stormwater management block (to be shared with westerly landowner);
- A walkway block;
- A block for the 407 Transitway;
- Open space blocks;
- NHS blocks; and,
- Public roadways.

An aerial map and a Future Development zone excerpt from the Zoning By-law 2009-189, as amended, are included in **Appendix "A"**.

A copy of the applicant's development Concept Plans are included as **Appendix "B"**.

A copy of the applicant's draft Zoning By-law is included as **Appendix "C"**.

A copy of the applicant's Draft Plan of Subdivision is included as **Appendix "D"**.

Property Location: The subject lands are located on the north side of Dundas Street West, centred on Regional Road 25, and extending to Highway 407 on the west side of Regional Road 25. See Appendix A.

Surrounding Land Uses: The irregular shaped property is currently vacant. The surrounding land uses are as follows:

- *North* – Highway 407 and agricultural land.
- *South* – Retail and commercial shopping plaza.
- *East* – Low density residential uses, Vaishno Devi Temple and Palermo United Church.
- *West* – One residential dwelling, employment use and agricultural land.

Submitted Plans / Reports: The applicant has provided technical supporting materials. The supporting documentation is accessible on the Town’s website at <https://www.oakville.ca/business-development/planning-development/active-development-applications/ward-7-development-and-site-plan-applications/palermo-village-corporation-3069-dundas-street-west-and-3278-regional-road-25>.

Key Milestones:

This is a Bill 109 application. As such, the 90-day decision timeframe is applicable for the Zoning By-law amendment application.

Pre-Consultation Meeting	None
Public Information Meeting - applicant initiated	July 25, 2023
Pre-submission Review	N/A
Application Deemed Complete	N/A
Submission of Materials	October 6, 2023 (initial submission and Town fees) October 30, 2023 (revised draft ZBA) November 14, 2023 (revised PJR and commercial study)
Recommendation Meeting	Today’s meeting of December 18, 2023
Date Eligible for Appeal/Refund for Non-decision	The application has not been deemed complete. If appealed and application deemed complete by OLT decision may be retroactive to as early as January 4, 2024 for Zoning By-law Amendment Application if

	taken from date of submission of Town fees only on October 6 th .
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PLANNING POLICY CONTEXT

The proposal is being considered in the context of the following policy and regulatory framework:

- *Planning Act*
- Provincial Policy Statement (2020)
- Growth plan for the Greater Golden Horseshoe (2019, as amended in 2020);
- Halton Region Official Plan;
- 1984 Oakville Official Plan (2006 Consolidation);
- Official Plan Amendment 198;
- Zoning By-law 2009-189; and
- Appealed town OPAs (OPA 34,37,38)

COMMENTS

Palermo Village has been the subject of detailed, comprehensive land use studies by the Town. The most recent comprehensive land use study was completed this year and adopted by Council through OPAs 34, 37 and 38. As noted in staff's recommendation regarding the foregoing, this comprehensive land use study, as approved by Council and Halton Region:

- i. manages and directs land use to achieve efficient and resilient development and land use patterns, and ensure a healthy, livable and safe community consistent with the PPS.
- ii. supports the achievement of complete communities by and assists in implementing the town's urban structure which provides a hierarchy of settlement areas and an urban form that optimizes infrastructure in conformity with the Growth Plan.
- iii. ensures the lands subject to the Urban River Valley designations are appropriately designated, in conformity with the Greenbelt Plan.
- iv. conforms to the Halton Region Official Plan.
- v. achieve the mission statement and guiding principles of the Livable Oakville Plan, and conforms to the general policies while protecting natural heritage, open space and cultural heritage, maintaining the character of established areas and directing required growth to an identified system of nodes and corridors served by public transit.

The concept put forward by PVC does not conform to existing nor the foregoing adopted policies. There are several notable differences, including the following:

- i. **Land Uses:** including the addition of low and medium density residential uses, removal of office/employment and retail uses.
- ii. **Natural Heritage System (NHS):** including moving a linkage north and adjacent to a provincial highway and the medium constraint stream corridor on the west side of Bronte Road and south of Hwy 407.
- iii. **Built Form:** including increasing building height permissions. The impacts on density and transitions, including transitions to identified Cultural Heritage resources are unclear.
- iv. **Transportation Network Changes:** including the addition of local roads and intersections impacting private land and regional facilities outside of the Palermo SGA and changes to the transit terminal in terms of location, size, configuration, and access.
- v. **Stormwater Management:** including facility deletions of planned facilities and relocations into the NHS and onto adjacent private lands are contemplated.

As the subject Zoning By-law Amendment and Draft Plan of Subdivision applications do not conform with the in effect nor adopted OPAs, they cannot be approved by the Town, however they can be appealed to the OLT and may be determined in that forum. Both applications are reliant on changes to Livable Oakville through a future OLT decision related to OPA 34, 37 and 38. This has resulted in a fundamental issue in processing these applications since there is no applicable land use policy within which to evaluate the applications. Furthermore, and because of the Bill 109 timelines, it is noted that there is insufficient time to resolve this matter before the applicant could be eligible for a refund of the application fees.

Given the foregoing, and for the reasons outlined in this report, it is staff's recommendation to refuse both applications as premature and non-conforming with either the in-force or adopted policies of the Official Plan. As a result, this will result in no fees being refunded regardless of a potential appeal to the OLT regarding the completeness of the applications. It is anticipated that the applicant will appeal this decision and that the appeal would be consolidated with the appeals of OPA 34, 37 and 38.

CONCLUSION

Staff recommend refusal of the applications, for the reasons outlined in this report. Moving forward, staff expect to undertake a complete, comprehensive, integrated

and coordinated review of both anticipated appeals as part of a future Tribunal process.

CONSIDERATIONS:

(A) PUBLIC

The applicant undertook a public engagement process. See Appendix E for the details. Should an appeal be filed, notice will be distributed in accordance with Town standards and the OLT hearing will include opportunities for public feedback.

(B) FINANCIAL

Future development may be subject to the Town's Community Benefit Charge By-law.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

This application was not circulated and is being recommended for refusal as set out in comments of this report.

(D) CORPORATE STRATEGIC GOALS

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

- To be a vibrant and livable community for all.

(E) CLIMATE CHANGE/ACTION

The proposed development will be reviewed to ensure compliance with the Town's sustainability objectives of the Livable Oakville Plan.

APPENDICES:

Appendix A: Mapping

Appendix B: Concept Plans

Appendix C: Applicant's Draft Zoning By-law Amendment

Appendix D: Applicant's Draft Plan of Subdivision

Appendix E: Applicant's Public Information Meeting Minutes

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