

REPORT

PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: MAY 15, 2017

 FROM:
 Planning Services Department

 DATE:
 April 24, 2017

 SUBJECT:
 Recommendation Report - Official Plan Amendment and Zoning By-law Amendment - Capreit Limited Partnership - File Z.1512.08 1360 White Oaks Boulevard and 1289 Marlborough Court

 LOCATION:
 1360 White Oaks Boulevard and 1289 Marlborough Court

 WARD:
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RECOMMENDATION:

- 1. That the Official Plan Amendment and Zoning By-law Amendment submitted by Capreit Limited Partnership (File Z.1512.08) be denied.
- 2. That notice of Council decision reflect that the refusal of the application was consistent with comments received from the public.

KEY FACTS:

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

- This report provides a recommendation for an Official Plan Amendment and Zoning By-law Amendment application submitted by Capreit Limited Partnership, received on September 16, 2016 and deemed complete on September 28, 2016.
- The intent of the applications is to permit an 838 m2 commercial fitness facility within the residential building located at 1360 White Oaks Boulevard. The applicant is proposing to convert existing amenity space previously used as an indoor swimming pool.
- The application has been circulated to internal departments and public agencies for review and comment.
- A Public Information Meeting was held on November 22, 2016 and ten residents of the area attended the meeting. The statutory Public Meeting was held on February 13, 2017.
- The applicant has not sufficiently demonstrated that the change in land use is appropriate for this location.

- Staff are of the opinion that the proposed amendments to the Official Plan and Zoning By-law to permit a commercial fitness centre on the subject site are not appropriate. The use would undermine the planned function of the High Density Residential land use designation, creating adverse impacts to the established residential neighbourhood which the Livable Oakville Plan seeks to protect.
- Staff recommends denial of the development applications.

BACKGROUND:

The purpose of this report is to provide a full staff review of the application and a recommendation on the proposed Official Plan Amendment and Zoning By-law Amendment to allow a public fitness centre on the subject site.

The applicant advises that a commercial business tenant intends to operate a women's fitness centre within the ground floor of 1360 White Oaks Boulevard. The commercial business would be open to the public therefore establishing a commercial use within a stand-alone residential building, contrary to the Official Plan and Zoning By-law.

Taking into account the policies of the Livable Oakville Plan and the RH (Residential High) Zone of the subject site, staff provided preliminary feedback to the applicants during the pre-consultation meeting regarding the proposal for the commercial use within the residential building. The applicants were aware of Staff concerns and applied for a minor variance to have the commercial use permitted through the Committee of Adjustment. Staff recommended denial of the variance application and the Committee denied the proposal in May of 2016.

Official Plan Amendment and Zoning By-law Amendment applications were submitted on September 16, 2016 by Capreit Limited Partnership. The applications were deemed complete by Planning staff on September 28, 2016.

A Public information Meeting was held on November 22, 2016 in which ten residents in the area raised concerns about the proposed commercial nature of the use, parking issues that would be created, and noise concerns. Staff have received a number of written submissions objecting to the application. A Public Meeting was held on February 13, 2017. No further verbal comments were provided at the meeting, however correspondence was received for submission to the members of the Planning and Development Council prior to the February 13, 2017 meeting. These submission have been included as Appendix 'A' to this report.

The applicant has not sufficiently demonstrated to staff, through the supporting materials for the application, that the change in use is appropriate for the established neighbourhood and if it can be considered good planning.

Proposal

The applicant seeks an amendment to the Official Plan and Zoning By-law to permit an 838 m2 sports facility (i.e. fitness centre) to be located within the existing residential building at 1360 White Oaks Boulevard. The fitness facility would be located at the base level of the residential apartment building which was previously used as an indoor swimming pool for the exclusive use of the apartment residents.



Figure 1: Site showing location of 1360 White Oaks Boulevard and the proposed fitness centre

Internal renovations are required to accommodate the fitness centre to replace the existing amenity space that included an indoor swimming pool. The users of the fitness centre would be directed to park within the commercial parking lot that fronts along Trafalgar Road and use the internal walkways to access the gym. No additional parking is proposed to support the commercial business.

The effect of the Official Plan Amendment and Zoning By-law Amendment would be to introduce a commercial use within a residential apartment building. A site specific

Official Plan Amendment and Zoning By-law would be required to permit the commercial use.

Location

The subject site is approximately 3.2 hectares in size and is bounded by Marlborough Court to the south, Trafalgar Road to the west, White Oaks Boulevard to the south. Detached dwellings directly abut the site to the north.



Figure 2: Aerial Photograph of subject land

Site Description

The subject lands contain two 18-storey rental apartment buildings (1360 White Oaks Boulevard and 1297 Marlborough Court) and a commercial plaza (1289 Marlborough Court). The apartment building located at 1360 White Oaks Boulevard contains 125 apartment units and 1297 Marlborough Court contains 141 apartment units.

The commercial development located at 1289 Marlborough Court contains 14 commercial uses with the majority of the uses fronting onto Trafalgar Road, three units fronting onto Marlborough Court and two units face the internal courtyard.

There is a Montessori school located at the base of 1360 White Oaks Boulevard.

Surrounding Land Uses

The area surrounding the site includes:

North:	Two storey detached residential dwellings
	O1 stans, is side at a second set building

East: 21 storey residential apartment building

South: Six storey residential apartment building

West: Sheridan Campus and green space

POLICY FRAMEWORK

Provincial Policy Statement

The Provincial Policy Statement is intended to promote a policy led system, which recognises that there are complex relationships among environmental, economic and social factors in land use planning. The PPS encourages the wise management of land to achieve efficient development and land use patterns by directing growth to settlement areas and by promoting a compact development form.

On February 24, 2014, the Ministry of Municipal Affairs and Housing issued a new Provincial Policy Statement (PPS) 2014 under Section 3 of the *Planning Act*. The new PPS replaces the 2005 statement and is effective April 30, 2014.

The PPS directs planning authorities to identify appropriate locations for intensification; to enact appropriate development standards to facilitate intensification; and to implement minimum targets for redevelopment within built up areas, based on local conditions (PPS, Part 1.1.3.3, 1.1.3.4 and 1.1.3.5). Appropriate locations and opportunities for intensification and standards to facilitate intensification are described in Livable Oakville and implemented through Zoning By-law 2014-014. The Town has considered local conditions in the development

and implementation of the Town's growth management framework, which includes six Growth Areas and identified transit corridors within which the majority of intensification is to occur. These Growth Areas and intensification corridors are Midtown Oakville, Uptown Core, Palermo Village, Bronte Village, Kerr Village and Downtown Oakville, the Trafalgar Road and Dundas Street Corridors.

Staff are of the opinion that the proposed development and site specific amendments required to facilitate the proposed development are not consistent with the local conditions for future growth as expressed by the policy, vision and objectives for established residential neighbourhoods in the Livable Oakville Plan.

Region of Halton Official Plan

The OMB has issued a series of decisions regarding the partial approval of ROPA 38 to the Halton Region's Official Plan. The policies of ROPA 38 to Halton's Official Plan are in force with the exception of site specific and policy specific matters unrelated to this application.

The lands are designated "Urban Area" according to the Region's Official Plan. The Urban Area is "planned to accommodate the distribution of population and employment for the Region and the four Local Municipalities". One of the objectives of the Urban Area (Policy 72(1)) is to "accommodate growth in accordance with the Region's desire to improve and maintain regional unity, retain local community identity, create healthy communities, promote economic prosperity, maintain a high quality, sustainable natural environment, and preserve certain landscapes permanently". The range of permitted uses and the creation of new lots in the Urban Area will be in accordance with Local Official Plans and Zoning By-laws. All development, however, shall be subject to the policies of the Regional Plan.

Livable Oakville Plan

The Livable Oakville Plan was approved by the Ontario Municipal Board on May 10th, 2011 and is consistent with the Provincial Policy Statement and conforms to the Provincial Growth Plan for the Greater Golden Horseshoe

The subject lands are dual-designated Neighbourhood Commercial and High Density Residential on the Livable Oakville Plan on Schedule I: Central Land Use. Trafalgar Road is designated a transit corridor in Livable Oakville. The portion of the lands fronting onto Trafalgar Road are designated Neighbourhood Commercial. The balance of the lands are designated High Density Residential.

The High Density Residential land use designation does not contemplate commercial uses.



Figure 3: Livable Oakville Excerpt

A detailed description of the relevant and applicable policies are included within the Planning Analysis Section of my report.

Zoning By-law 2014-014

There is currently a split zoning which applies to the subject lands. The westerly portion of the site is zoned C-86 and the easterly portion is zoned RH-86. The special provision speaks to the underground parking garage crossing zoning lines and that parking spaces for all uses are permitted throughout the garage, as well as permissions for outdoor play equipment and accessory structures being permitted in the northern yard.



Figure 4: Zoning By-law Excerpt

Proposed Official Plan Amendment and Zoning By-law Amendment

The proposed site specific Official Plan Amendment would request the inclusion of a commercial use (fitness centre) within the portion of the property designated High Density Residential.

A site specific Zoning By-law would establish regulations intended to control the scale and location of the proposed commercial use.

PLANNING ANALYSIS:

Planning matters considered

Physical Context

The evaluation of the proposed development includes an assessment of the physical context and character of the surrounding neighbourhood. In this case the neighbourhood is primarily residential with institutional uses and a commercial node that is focused along the Trafalgar Road Corridor.

The subject building is an 18-storey rental apartment building located on White Oaks Boulevard. White Oaks Boulevard is considered a residential street that serves multiple forms of stand-alone residential dwellings. The site is connected to the commercial portion of the property that fronts onto Trafalgar Road by pedestrian walkways. The commercial building, noise walls at the rear of the drive-thru and restaurant uses, and landscaping divide the properties into two distinctly different sites.

A Montessori daycare operates out of the ground floor unit adjacent to the existing amenity area of 1360 White Oaks Boulevard. The daycare is a permitted use in the within the Official Plan High Density Residential land use designation and the RH (Residential High) Zone. Daycare facilities and private schools are no longer permitted on roads that are functionally classified less than an arterial roadway.

Conformity with the Livable Oakville Plan

The Livable Oakville Plan (2009 Town of Oakville Official Plan) applies to all lands within the town except the North Oakville East and West Secondary Plan areas. It sets out Council's policies on where intensification would be appropriate and how growth should be managed through to 2031.

The guiding principles, set out in Section 2 of the Livable Oakville Plan, are designed to preserve and create a livable community. Specifically, Part 2, Section 2.2.1 a) and b) reinforce the Town's Urban Structure:

"a) preserve, enhance, and protect the distinct character, cultural heritage, living environment, and sense of community of neighbourhoods;

b) direct the majority of growth to identified locations where higher density, transit and pedestrian oriented development can be accommodated."

The Definitions within Livable Oakville that are particularly relevant in the review of the subject application include:

"Development means the creation of a new lot, a change in land use, or the construction of buildings and structures, requiring approval under the Planning Act.

Intensification means the development of a property, site or area at a higher density than currently exists through:

- a) Redevelopment, including the reuse of brownfield sites;
- *b)* The development of vacant and/or underutilized lots within previously developed areas;
- c) Infill development; or
- d) The expansion or conversion of existing buildings."

The application to amend the Official Plan proposes a commercial use in a stand alone residential building that is located on a residential street within a stable neighbourhood. The site is not within a growth area where intensification is envisioned and the proposed fitness centre is not considered the type of intensification intended within residential neighbourhoods. The intent of the Livable Oakville policies is that any intensification would be of a residential nature. The applicant has not sufficiently demonstrated that the change in land use is appropriate.

The planning justification report submitted in support of the subject applications takes the position that the proposal is for an adaptive re-use of an exclusive amenity space that is currently vacant. The report states that the re-use will "foster increased social interaction and public safety and security", that will bring investment into the building and more pedestrian traffic through the open space located at the centre of the subject lands. The applicant proposes that the fitness centre is a compatible mix of residential and employment uses within the neighbourhood. The applicant has not demonstrated how permitting a significantly intense use, such as a fitness centre that has the potential to be open 24 hours a day seven days a week,

and invites the public to enter what has been a predominantly private space for the existing residents, can be considered appropriate or to increase public safety.

Staff's areas of concern include conformity with the policies within Section 11.1.8, 11.1.9 and 26.3.3.b) of the Livable Oakville Plan, the compatibility of a commercial use within a residential building, and the concern that approving a commercial use within an established residential neighbourhood would undermine the planned function of the HD Residential land use and policies of the Livable Oakville Plan. A precedent could be set for other similar situations that would also be undesirable. Fitness centres are known to be intense uses throughout the early morning hours, evenings and weekends. Permitting an intense use within an established neighbourhood will encourage other commercial business owners to seek out inexpensive retrofit space that do not demand high rental fees and has existing underutilized parking.

Part D: Section 11 of the Livable Oakville Plan contains objectives and policies that speak to the importance of compatibility within the established residential neighbourhoods, such as:

11.a) An objective within all of the Residential Areas is to "maintain, protect and enhance the character or existing residential areas."

11.1.8 "Intensification within the stable residential communities shall provide as follows:

c) Within stable residential communities, on lands designated Medium Density Residential and High Density Residential, there may be underutilized lands on which additional development may be appropriate. Intensification of these lands may occur within the existing density permissions for the lands and may be considered subject to the requirements of section 11.1.9 and all other applicable policies of this Plan."

Should the proposal to permit a commercial fitness centre, located within a stand alone residential building, be approved then the conversion of space is considered development due to the proposed change in land use – commercial use permissions in a residential designation. The applicant has not sufficiently demonstrated that the change in land use is an appropriate form of development. In addition, the proposal is considered intensification due to the conversion of an existing amenity area within a residential building to a commercial use. Additional intensification within residential neighbourhoods may take place if it is determined the lands are underutilized. Intensification of residential areas is typically in the form of increasing residential density permissions, not in increasing the types of uses permitted. The applicant has not sufficiently demonstrated how the intensity of the proposed fitness centre can be considered appropriate intensification in a residential neighbourhood instead of an invasion into the predominantly private spaces of the residential areas.

Section 11.1.9 includes policies for evaluating the appropriateness of development within stable residential communities as follows:

"Development within all stable residential communities shall be evaluated using the following criteria to maintain and protect the existing neighbourhood character:

- a) The built form of development, including scale, height, massing, architectural character and materials, is to be compatible with the surrounding neighbourhood.
- b) Development should be compatible with the setbacks, orientation and separation distances within the surrounding neighbourhood.
- *h)* Impacts on the adjacent properties shall be minimized in relation to grading, drainage, location of service areas, access and circulation, privacy, microclimatic conditions such as shadowing."

Staff are concerned about the impacts of the intensification of the use on the adjacent established neighbourhood. Adverse neighbourhood impacts include an increase in pedestrian traffic through outdoor amenity space that could be viewed as an invasion of private residential space, incompatible hours of operation, advertising, signage, infiltration of parking into residential lots, increased demand for parking along White Oaks Boulevard, lighting, noise, and garbage. The site and space was not intended to have an intense use within the ground floor of the residential building and is not well designed for this type of retrofit.

Section 11.1.10 Special Policy Areas identifies residential areas that have an additional policy overlay on them as follows:

"Special Policy Areas that are designated for residential uses area also described in Part E and are also subject to policies set out in Part E."

The subject property is considered within the Trafalgar Road Corridor Special Policy Areas, and the policies of Part E, Section 26.3 apply.

Section 11.4

11.4 "The High Density Residential land use designation may permit a wide range of high density housing types, including multiple-attached dwelling units, apartments, retirement homes and long-term care homes."

The High Density Residential Land Use designation does not contemplate commercial uses. The intent of the designation is for stand alone residential uses. The effect of permitting a commercial use would encourage the transition of residential space within stable residential neighbourhoods to commercial uses that would impact the planned function and established character of those communities. The intent of protecting existing and established neighbourhoods by not permitting commercial uses is to protect the areas from invasion of private spaces, noise, disruption, operating issues, significant increased levels of activity associated with the permitted use seven days a week, demand for parking into the residential lots, among others.

The eastern portion of this larger property fronts onto White Oaks Boulevard and has a distinctly different character than the commercial uses that front along Trafalgar Road. The proposed development is not in keeping with the residential character of the street and is not a compatible use to introduce into the neighbourhood.

The commercial portion of the site is the more appropriate location for a commercial fitness centre where there would be less concern regarding the hours of operation, noise, and accessible parking. There is also a concern of setting a precedent for future encroachment of additional commercial uses within the other apartment buildings along White Oaks Boulevard should the use be permitted. Should an intense use, such as a fitness centre, be permitted in an established neighbourhood it opens the door for other uses to apply for the same conversions and change of use. The pressure to allow more change of this nature and intensity will increase as will the conflicts with the established residential area policies in the Livable Oakville Plan.

Trafalgar Road Corridor Planning Study (TRCPS)

Part C: Section 3: Urban Structure speaks to Special Policy Areas that are subject to further study for which additional policies apply beyond the underlying land use designations.

The TRCPS is considered a Special Policy Area with policies for lands within the designated corridor area.

The TRCPS examined land uses and identified opportunities for intensification and redevelopment along the Trafalgar Road corridor between Midtown Oakville and the Uptown Core. The Study was commissioned to identify appropriate opportunities for intensification linked to future transit improvements as well as recommend appropriate land use policies to accommodate potential intensification opportunities.

The study considered development through an analysis of land use, scale, built form and transit supportive development and densities along the Trafalgar Road Corridor. The intent was to preserve the commercial and mixed use sites, promote the mix of uses in terms of long term redevelopment options as well as protecting for the infiltration of non-residential uses within established neighbourhoods that the Livable Oakville Plan seeks to protect. The TRCPS set out a framework of policies to permit the recommended development of the lands along Trafalgar Road.

Part E: 26.3 Trafalgar Road Corridor (QEW to Dundas Street)

26.3.1 "Development Concept: The Trafalgar Road Corridor Special Policy Area is intended to provide for the redevelopment of specific properties along Trafalgar Road to provide transit-supportive development which supports and creates an urban connection between Midtown Oakville and the Uptown Core.

The Trafalgar Road Corridor consists of a wide range of existing land uses including low and medium density residential uses. Development shall be designed to respect the built and planned context, and in accordance with the design direction contained in the Livable by Design Manual."

The entire property is under the same ownership and therefore subject to the TRCPS policies. The intent of the special area policies is to encourage the commercial uses along Trafalgar Road, while recognizing the residential nature of the apartment buildings. In addition, the inclusion of an intense use, such as a fitness centre does not fit into the built and planned context of the residential areas of the neighbourhood and would be better suited to the commercial portion of the site that is fronting onto Trafalgar Road.

Policy 26.3.2 Functional Policies for Urban Design speak to seamless transitions between public and private realms and providing access from one to the other. The inclusion of the fitness centre blurs the boundaries of the planned function of the residential area and public versus private space. A fitness centre would typically front onto a large parking lot, on an arterial road that would provide ease of access to its facilities.

Policy 26.3.3.The following policies apply specifically to the lands within the TRCPS Special Policy Area:

a) "Notwithstanding section 11.1.8c) and 11.4.2, on lands designated High Density Residential within the Trafalgar Road Corridor Special Policy Area, there may be underutilized lands on which additional development may be appropriate.

Intensification of these lands may be considered to occur up to 300 units per site hectare."

The policies speaking to intensification for residential uses do not contemplate introducing commercial uses within the designation.

The TRCPS policy recommendations were based on good land use planning principles, protecting the character of the corridor and surrounding area and was approved by Council in 2014 and a subsequent Official Plan Amendment 5 to insert the policies into the Livable Oakville Plan.

The existing space and site context is not well designed to include the fitness centre and the applicant has not shown how they will mitigate the adverse impacts. The use was not contemplated as appropriate in the TRCPS. Staff do not consider this use to be compatible in this location when the commercial node for the area is situated along Trafalgar Road.

Matters to be considered

A Public Information Meeting (PIM) was held on November 22, 2016 and was attended by ten residents of the nieghbourhood. The residents that attended the meeting were opposed to the application and their concerns are included below:

- Concern that a commercial use could set a precedent in the neighbourhood of allowing a level of intensity and activity in a residential area
- Ability to regulate the hours of operation of the fitness facility
- Intensity of the use
- Should the fitness centre vacate the space what use would be allowed next.
- Impacts to existing residents of 1360 White Oaks Boulevard and adjacent residents i.e. traffic, parking, safety, garbage, and noise

Throughout the planning process, public input has been extensive and has consisted of written correspondence, participation in meetings and submissions to Council. Written correspondence received since the Public Meeting is attached in Appendix 'A' to this report.

CONCLUSIONS:

The intent of the Official Plan Amendment and Zoning By-law Amendment is to permit a commercial use within a stand alone high density residential apartment building. The site is located within an established residential neighbourhood as identified in the Livable Oakville Plan. The applicant has not sufficiently demonstrated that the change of land use is appropriate.

Staff is not satisfied that the application conforms to the overall policy direction of Livable Oakville and recommends denial of the application. The proposal does not satisfy the policy objectives of protecting established neighourhoods and directing growth to identified Growth Areas and Transit Corridors. Permitting a commercial use in this location is not considered appropriate for an established residential neighbourhood. The introduction of commercial uses within the HD residential land use designation would impact the established residential neighbourhood which the Livable Oakville Plan and policies seeks to protect.

Staff have three main areas of concern with the proposal to change the use from a strictly residential space to a commercial business that will be open to the public:

- The nature of the planned function of the residential use and the predominantly private space that currently exists. This space was not intended for a commercial business, nor is the site well designed to have a fitness centre operate and be easily accessible. Impacts from advertising, signage and lighting are also impacts onto the residential area that are associated with a commercial business. The commercial space along Trafalgar Road would better serve the safety need of the fitness centre patrons.
- 2. The intensity of the use and the significant impacts and invasion of the private space as well as to the established residential neighbourhood, such as the hours of operation throughout the week and weekends, infiltration of parking into the residential lots that will create a higher demand for parking in areas that were not intended to have public users, on-street parking demand.
- 3. The uncontrollable factors that a fitness centre could invite include increased public safety concerns that would need to be addressed through lighting and further thoughtful design of the site, noise and garbage. These impacts could also affect the enjoyment of the residents' private dwelling space. In addition, there is the significant concern over what will happen to the space should the fitness centre vacate the space. The stage will have been set for an intense use to be permitted in the subject building and it can be anticipated that there will be increased pressure to expand the permissions and regulations to permit other uses in the future.

A commercial use is not contemplated within the Residential High Density land use designation in Livable Oakville and it is not permitted within the RH (Residential High) Zone. It was not contemplated within the Trafalgar Road Corridor Planning Study as only the Trafalgar Road frontage of the site, with the commercial uses, was intended for redevelopment, intensification and change. The property functions as two different sites and are separated physically by commercial uses, noise walls and landscaping – and connected via an internal walkway system. The commercial portion of the property along Trafalgar Road serves the area well and is the more appropriate location for such a use as proposed.

Denying an application for the inclusion of a commercial use in an established neighbourhood is recommended as it will ensure that a precedent is not set for similar applications of this nature to apply for similar permissions throughout residential areas. Denying the subject application will also ensure that should the proposed fitness centre vacate the premises that other commercial uses will not apply to modify the site specific regulations and occupy the existing space.

Staff recommend denial of the Official Plan Amendment and Zoning By-law Amendment as it is not appropriate and does not represent good planning.

CONSIDERATIONS:

(A) PUBLIC

A Public Information Meeting (PIM) was held on November 22, 2016, which was attended by a Ward Councillor and ten members of the public. Comments received related to impacts of the proposed use on adjacent residents, parking, hours of operation, setting a precedent for commercial uses, garbage and noise.

A Statutory Public Meeting was held on February 13, 2017.

(B) FINANCIAL

If the redevelopment as proposed were to go forward, it would be fully subject to Development Charges as new commercial development.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

Town departments and agencies have been consulted in the review of the planning applications. Comments received from the circulation have been included as Appendix 'B'.

(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS

This report addresses the corporate strategic goal to:

• be the most livable town in Canada

(E) COMMUNITY SUSTAINABILITY

The proposed development does not conform with the sustainability goals and objectives of the Livable Oakville Plan.

APPENDICES:

Appendix A – Public comments submitted to the Planning and Development Council for consideration at the February 13, 2017 Statutory Public Meeting Appendix B – Comments received by internal departments and external agencies

Prepared by: Tricia Collingwood, MCIP, RPP Senior Planner Current Planning – East District Recommended by: Gabe Charles, MCIP, RPP Senior Manager Current Planning and Urban Design

Submitted by: Mark H. Simeoni, MCIP, RPP Director, Planning Services