

REPORT

COUNCIL MEETING

MEETING DATE: AUGUST 21, 2017

FROM: Planning Services Department

DATE: August 3, 2017

SUBJECT: Crown Right Severance Requests – Provincial Lands

LOCATION: Winston Park West, Burnhamthorpe Rd E/403 and 1390 Joshua Creek Drive

WARD: 6

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RECOMMENDATION:

That Oakville Council advise the Ministry of Infrastructure that Council supports the request from Infrastructure Ontario on behalf of the Province to exercise the Crown Right severance exemption option as set out in Section 50(3)(c) of *the Planning Act* as it applies to certain lands described in the Planning staff report dated August 3, 2017.

KEY FACTS:

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

- Infrastructure Ontario on behalf of the Province has requested concurrence from the Town to facilitate the severance of three properties designated for Employment uses through a Crown Right exemption process.
- Although Section 50(3) (c) of *the Planning Act* allows the Province to subdivide property without approval from the municipality (Crown Right), the Province's procedures require written authorization and support from the approval authority prior to exercising the Crown Right process.
- The Town's Delegated Approval By-law does not currently authorize the Director of Planning to grant approval for Crown Right exemption requests, and therefore it is appropriate that such requests be provided through Council resolution.
- Planning staff have reviewed the planning merits of the proposed severance requests in terms of conformity with the Official Plan and zoning

by-law and have no objection to the Province implementing the Crown right severance option for these lands.

BACKGROUND:

Infrastructure Ontario on behalf of the Province of Ontario has requested permission from the Town to facilitate the severance of three properties within the Town for Employment uses. Infrastructure Ontario has advised that the severed parcels would be conveyed to private interests to be developed in accordance with Town Official Plan policies and processing requirements.

Although Section 50(3) (c) of the *Planning Act* allows the Province to subdivide property without approval from the municipality (Crown Right), the Province's procedures require written authorization and support from the approval authority prior to exercising the Crown Right process.

Since the Town's Delegated Approval By-law currently does not authorize the Director of Planning to grant approval for Crown Right exemption requests, it is appropriate that such requests be provided through Council resolution.

Council previously approved a similar Crown Right exemption request to create the developable lands for the new Oakville Hospital in North Oakville.

PLANNING ANALYSIS:

Employment Properties subject to Crown Exemption Request

The legal description of the three properties which are the subject of the Crown Right exemption request:

- Winston Park West – see Appendix A

Firstly, Being the whole of PIN 24902-0175(LT); Part of Lot 4, Con. 1, Trafalgar, SDS, designated as Parts 1 and 2 on Plan 20R5917 and Part 6 on Plan 20R-4180

Secondly, Being the whole of PIN 24902-0174(LT); Part of Lot 4, Con. 1, Trafalgar, SDS, South East of Hydro Lands, North West of Part 4 on Plan 20R-5347 and South West of Part 1 on Plan 20R-3104, subject to Instrument No. 102993, 619501 and 804144, Town of Oakville, Regional Municipality of Halton (the "Secondly Lands")

- 1390 Joshua's Creek Drive – see Appendix B

Part of Lot 6, concession 2, Trafalgar, S.D.S, designated as part of Part 1 on Plan 20R-20656, Oakville, being part of PIN 24890-0330(LT)

- Burnhamthorpe Road East and Highway 403 – see Appendix C

Part of PIN 24930-0656(LT), being Part of Lots 6 and 7, Con. 2, NDS (Trafalgar), designated as Parts 1 and 2 on Plan 20R-19032 except Parts 33 and 34 on Plan 20R-20047; subject to an easement in gross over Parts 1 and 2 on Plan 20R-20047 as in HR1423713; Town of Oakville, Regional Municipality of Halton

OFFICIAL PLAN – Livable Oakville

The following are the applicable consent (severance) policies for lands south of Dundas Street and therefore applicable to Winston Park West and 1390 Joshua's Creek Drive.

“Section 28.12.1 – Consents may be permitted for the creation of a new lot, boundary adjustments, rights of way, easements, long-term leases and to convey additional lands to an abutting lot, provided an undersized lot is not created.

Section 28.12.2 – Applications for consent to create new lots may only be granted where:

- a) plan of subdivision is not necessary;*
- b) the number of resulting lots is three or less;*
- c) the lot can be adequately serviced by water, wastewater and storm drainage facilities;*
- d) no extension, improvement of municipal services is required;*
- e) the lot will have frontage on a public street and access will not result in traffic hazards;*
- f) the lot will not restrict the ultimate development of adjacent lands*
- g) the size and shape of the lot conforms with the requirements of the Zoning By-law, is appropriate to the use proposed and is compatible with adjacent lots; and*
- h) the consent conforms to all relevant policies of this Plan. “*

The following are the applicable consent (severance) policies applicable to the North Oakville East Secondary Plan and therefore applicable to the Burnhamthorpe Road East and Highway 403 lands:

Section 7.10.5 Consents

Subdivision of land shall generally take place by plan of subdivision. Consents may be permitted in accordance with:

- a) the provisions of Part C, Section 12.2(b), c) and d) and Section 12.3 of the Official Plan;*
- b) any applicable provisions of this Secondary Plan; and,*
- c) provided that the consent shall not prejudice the implementation of this Secondary Plan.*

Section 12.2 Urban Severance Policies

- b) Although urban severances may be permitted, development in urban areas is generally to take place in accordance with comprehensively designed registered plans of subdivision. Land division by a plan of subdivision, rather than by a consent, shall generally be deemed necessary in the following cases:*

where the extension of a public road is required or a new road allowance is required;

where the extension of municipal services is required;

where agreements or conditions are required by the Town with regard to any part of the remaining lands if a consent were granted;

- c) Where severances are permitted, the lot or lots to be created and the remaining parcel of parcels shall conform with the Official Plan and the relevant Zoning By-law.*
- d) In the case of non-conformity with the approved Official Plan and/or Zoning By-law, any consent granted shall be conditional upon the approval of an Official Plan Amendment and/or Zoning By-law Amendment or Committee of Adjustment decision by the appropriate authorities.*

Section 12.3 Criteria for Urban Severances

- a) Regard shall be had to the compatibility of the size, shape and proposed use of the lot to be created with the present and potential uses, lot patterns and character in the adjacent areas.*

- b) Severances will be considered for the purpose of infilling in an existing urban area, but shall not extend the existing urbanized area. Infilling which economizes the use of urban space without disturbing the pattern of development of the existing development or perpetuating an undesirable pattern of development or prejudicing the layout of future development shall be considered acceptable.*
- c) In particular, where the applicant's lands are situated within an existing urban area designated by the Official Plan for redevelopment and the size of the parcel is large, and it is apparent that an application for a severance is a forerunner of other similar applications on the original holding, such individual severances from that parcel will be discouraged in favour of development by a plan of subdivision.*
- d) Where existing development lots have the potential for redevelopment on a more comprehensive scale, proposed severances which would have the effect of blocking potential points of access or further fragmenting ownership of these lands, may be refused."*

Winston Park West Draft Plan – Refer to Appendix A for mapping and supporting information

On April 18, 2016, Oakville Town Council approved a draft plan of subdivision and zoning amendment application which would have the effect of permitting the development of employment and business commercial uses on the subject lands.

The draft plan of subdivision consists of three separate land holdings including Infrastructure Ontario (easterly portion), Sheridan Lane Holdings (westerly portion) and Rick Tomulka (centre portion).

In the interest of marketing the subject lands, the Province (Infrastructure Ontario) has requested permission to utilize a crown severance process to separate Blocks 3, 4, 5, 12 and the easterly part of Block 10 from the Highway 403 corridor. The Province would continue to retain ownership of the balance of Block 10 and Hydro Corridor.

Condition of draft plan approval #46 contemplated the potential use of the Crown Right process as indicated below:

"The Town will work with Infrastructure Ontario to implement a crown right severance to allow Blocks 3, 4 and 5 to be transferred to a future purchaser subject to confirmation that these blocks will be registered and developed in accordance with the conditions of draft plan approval to the satisfaction of the Town."

Since the approval of the draft plan of subdivision, Infrastructure Ontario has further refined their exemption request to include part of Block 10 and all of Block 12. The Official Plan policies require the comprehensive development of the entire draft plan to accommodate access and servicing. The future owners of the IO parcel including the two other landowners (Tomulka and Sheridan Lane) would continue to be jointly responsible for clearing the conditions of draft approval to allow the plan to proceed to registration. The transfer of ownership of the lands from Infrastructure Ontario to private interests would not have any impact on the configuration of the approved draft plan and is not expected to compromise the ability for the comprehensive development of the draft plan.

Although the effect of the crown severance would be to potentially create a land locked parcel (easterly portion of Block 10), this parcel has limited development potential as it located within the Parkway Belt West Plan, encumbered by various utility easements and zoned U-Utility which would only permit a conservation use or stormwater facility. Any future development proposals for this block would require a zoning amendment and therefore be subject to the policies of the Official Plan requiring the comprehensive development of the entire lands.

Once the applicable conditions of draft plan approval have been satisfied, the subject draft plan can be registered. Plan registration would formally create the individual blocks and parcels which could then be further transferred to individual purchasers to allow development in accordance with the zoning by-law.

Public consultation was previously undertaken through the processing of the draft plan of subdivision and zoning amendment process in accordance with the provisions of the *Planning Act* and therefore no further consultation is required.

Conclusion: Planning staff have no objection to implementing the Crown severance option for these lands. No conditions of approval would be required as the original conditions of draft approval continue to apply to the subject lands.

1390 Joshua's Creek Drive – Refer to Appendix B for mapping and supporting information.

The subject lands are located at the south west corner of Upper Middle Road East and Joshua's Creek Drive. The effect of the Crown Right severance would be to sever approximately 0.25 ha to permit the lands to be developed for Employment uses. The lands to be severed are designated Business Employment and the retained portion (Iroquois Shoreline Woods) is designated Parkway Belt.

Although Planning staff are currently processing a consent to sever application submitted by Infrastructure Ontario for these lands, IO has decided not to pursue the consent application pending Council's decision on the Crown Right requests.

The consent report recommending the approval was submitted to the Secretary Treasurer of the Committee of Adjustment on June 8, 2017. Conditions of approval requested by the Town include the requirement for cash in lieu of parkland and Phase 1 Environmental Site Assessment as requested by the Region. Staff note that the foregoing conditions can be appropriately addressed as a condition of site plan approval by the future developer which is the preference of Infrastructure Ontario.

Public consultation was provided through the processing of the consent application. The comments received related to clarification of the effect of the application and confirmation that the retained woodlot portion was not to be developed.

Conclusion: Planning staff have no objection to implementing the Crown severance option for these lands. No conditions of approval are required for the consent as any applicable conditions can be addressed through the site plan process.

Burnhamthorpe Road East and Highway 403 – Refer to Appendix C for mapping and supporting information

The subject lands are located within the North Oakville East Secondary Plan (NOESP). The westerly portion of the lands are designated "Utility Corridor" and the easterly portion "Employment" (Figure NOE2).

The effect of the Crown Right severance would be sever approximately 43 acres from the abutting Utility Corridor and the Highway 407 Corridor. The Province would continue to retain ownership of the Utility Corridor and the balance of the 407 Corridor. The severed Employment lands parcel would be conveyed to private interests to be developed at a future date when municipal services are available.

The NOESP identifies the future conceptual alignment of the William Halton Parkway and future widenings on Burnhamthorpe Road East. The Region of Halton has advised that no further land requirements are required as all required lands to accommodate the future William Halton Parkway construction and Burnhamthorpe Road right-of-way have been secured.

With respect to the North Oakville East Master Parkland Agreement (NOEMPA), the North Oakville Developer's Group and Trustee have no concerns with proceeding with the Crown Right severance request as the future owners will be required to

enter into an Adhesion Agreement and become members in good standing with the Association prior to proceeding with the submission of development applications.

The lands are zoned ED - Existing Development by By-law 2009-189. The proposed severance would not impact the current zoning. Staff have also recently supported the request from the Province for the removal the Ministers Zoning Order (MZO) given the applicability of By-law 2009-189 for the subject lands.

Staff note that the Future development of these lands would however be subject to a zoning amendment and potentially a draft plan of subdivision.

The timing of the future development for these lands would be subject to access to full municipal water and sanitary services which is not anticipated within the next 10 years.

No public notice would be required as a result of the Crown Right severance process. Given the location of the subject lands, the future timing of development and the relatively remote location, public interest in the creation of this parcel is expect to be minimal. Public consultation will be undertaken through future planning applications for these lands.

Conclusion: Planning staff have no objection to implementing the Crown severance option for these lands. No conditions of approval would be required. The severance would not compromise or affect the underlying land use or land use pattern established by the Master Plan or impact any Natural Heritage System features.

CONCLUSION:

Infrastructure Ontario on behalf of the Province of Ontario has requested permission from the Town to facilitate a Crown Right severance for three properties within the Town. The Province's procedures require written authorization from the approval authority prior to exercising the Crown Right process.

Planning staff have reviewed the planning merits of the proposed severance requests in terms of Official Plan conformity and zoning and have no objection to the Province implementing the Crown Right severance option for these lands.

Appendices

Appendix A – Winston Park Draft Plan, mapping and information

Appendix B – 1390 Joshua's Creek Drive – mapping and information

Appendix C – Burnhamthorpe Road East/403, mapping and information

CONSIDERATIONS:

(A) PUBLIC

Crown Right severance is not subject to public notice.

(B) FINANCIAL

None arising from this report.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

None

(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 proposal furthers the sustainability principles established within the Livable Oakville Plan.

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