

REPORT

PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: NOVEMBER 28, 2016

FROM: Planning Services Department 16-603

DATE: November 7, 2016

SUBJECT: **Public Meeting and Recommendation Report - Zoning By-law Amendment, Sixth Line Corporation - 41 Dundas Street East, File Z.1315.06, By-law 2016-103**

LOCATION: 41 Dundas Street East

WARD: 5 Page 1

RECOMMENDATION:

1. That Zoning By-law Amendment application by Korsiak Urban Planning on behalf of Sixth Line Corporation (File No: Z.1315.06) be approved;
2. That By-law 2016-103 be passed; and
3. That comments from the public be received and that notice of Council's decision reflect that the comments from the public have been appropriately addressed.

KEY FACTS:

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

- The subject report is a combined public meeting and recommendation report.
- The draft plan of subdivision and zoning by-law was originally approved by Oakville Council on July 7, 2014.
- The purpose of the Zoning By-law Amendment is to permit 25 detached dwellings currently zoned Neighbourhood Centre (NC-7) to be constructed in accordance with the General Urban Zone regulations for detached dwellings.
- The Zoning By-law Amendment will, first, permit a maximum lot depth of 34 metres for detached dwellings on seven specific future lots only whereas the

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Neighbourhood Centre Zone requires a maximum lot depth of 30 metres for single detached dwellings.

- The Zoning By-law Amendment will, second, permit a one-storey addition for a single-detached dwelling to project into the rear yard with a minimum rear setback of 3 metres whereas the Neighbourhood Centre Zone does not allow for this projection (the General Urban Zone permits this projection).
- A minor variance application to permit the above changes to the current zoning permissions on the subject lands was denied by the Committee of Adjustment on July 26, 2016. The Committee was of the opinion that a zoning by-law amendment would be the appropriate process to address this matter.
- As a supplementary component of the Zoning By-law Amendment, staff are proposing two additional holding provisions that will provide staff the ability to permit the registration of the plan of subdivision in its entirety (as opposed to a phased registration) in a manner which continues to meets the requirements of Conservation Halton, Region of Halton and the Town.
- The report recommends approval of a revised Zoning By-law Amendment application.

BACKGROUND:

The purpose of this report is to provide a statutory public meeting related to the revised zoning by-law amendment application and to provide a recommendation on a proposed Zoning By-law Amendment which would amend zoning regulations pertaining to lot depth and dwelling projection as it applies to twenty-five two-storey single detached dwellings on draft plan of subdivision 24T-12009.

The plan of subdivision for the subject lands received draft approval on August 28, 2014. Zoning By-law 2014-080, to permit development of the lands in accordance with the draft plan of subdivision, was passed by Council on July 7, 2014.

The developer / homebuilder has sold lots and homes which do not comply with the approved zoning. The applicant attempted to remedy this situation by way of a minor variance application to the Committee of Adjustment (more detail provided later in this report). The application was denied and the Committee of Adjustment determined that this matter should be addressed through a Zoning By-law Amendment.

An application for a Zoning By-law Amendment was submitted on August 31, 2016 and deemed complete on September 28, 2016. Staff investigated and assessed the proposed modifications to the Zoning By-law and are of the opinion that the

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proposed amendments could be supported in the circumstances since they do not undermine the integrity or objectives of the original approved draft plan and zoning.

The applicant is currently working to clear the draft plan conditions in order to register the entire plan of subdivision. This Zoning By-law Amendment provides the opportunity for staff to implement two additional holding provisions unrelated to the zoning modifications requested by the applicant. These holding provisions would facilitate timely registration of the draft plan of subdivision in accordance with Town and CH requirements by providing an alternative mechanism to deal with matters which were to be dealt with prior to plan registration. The public benefit of the timely registration of this draft plan is that this plan registration will complete the assembly of the Neighbourhood Park and School blocks shared between this plan and the registered subdivision to the east (20M-1173 / 20M-1176). This would enable development of both the neighbourhood park and/or school to proceed as scheduled.

The effect of the zoning by-law amendment would be to:

- Permit an increase in the maximum lot depth from 30m to 34m within the NC-7 zone. This regulation would only be applicable to 7 lots.
- Permit a portion of a dwelling located in the NC-7 zone to project into the rear yard in accordance with similar regulations in the General Urban (GU) zone. This regulation would only be applicable to 18 lots.
- Establish a holding provision for a portion of the draft plan which would be removed at such time that Conservation Halton and the Town are satisfied that the ultimate channel for West Morrison Creek, ultimate berm and ultimate pond outlet for Pond 22A have been completed and certified.
- Establish a holding provision for a portion of the draft plan which would be removed at such time that Conservation Halton provides written confirmation that lots are no longer susceptible to flooding under the Regional Storm event as this issue cannot be completely addressed until the lands west of Sixth Line adjacent to this area are redeveloped.

A Public Information Meeting for this application was not held because a Public Information Meeting was held as part of the processing and review of the original plan of subdivision and zoning by-law amendment application that ultimately provided the approval for development of these lands.

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Committee of Adjustment

On July 26, 2016, the Committee of Adjustment denied the applicant's request to modify the lot depth and rear yard projection regulations for 25 lots within the draft plan of subdivision. The Committee determined that the proposed variances were not minor in nature and should be addressed through a formal zoning by-law amendment. The proposed zoning by-law amendment is intended to establish the same regulations which were denied by the Committee of Adjustment.

PROPOSAL:

The application requests two amendments to the current zoning on the property. The first amendment relates to the minimum rear yard setback / rear yard projection for eighteen proposed future lots within the plan of subdivision. The second amendment relates to the maximum lot depth for seven proposed future lots within the plan of subdivision.

Location

The property is municipally known as 41 Dundas Street East and is located northeast of the intersection of Sixth Line and Dundas Street and encircles the Munn's United Church and a privately-held property adjacent to the church property.

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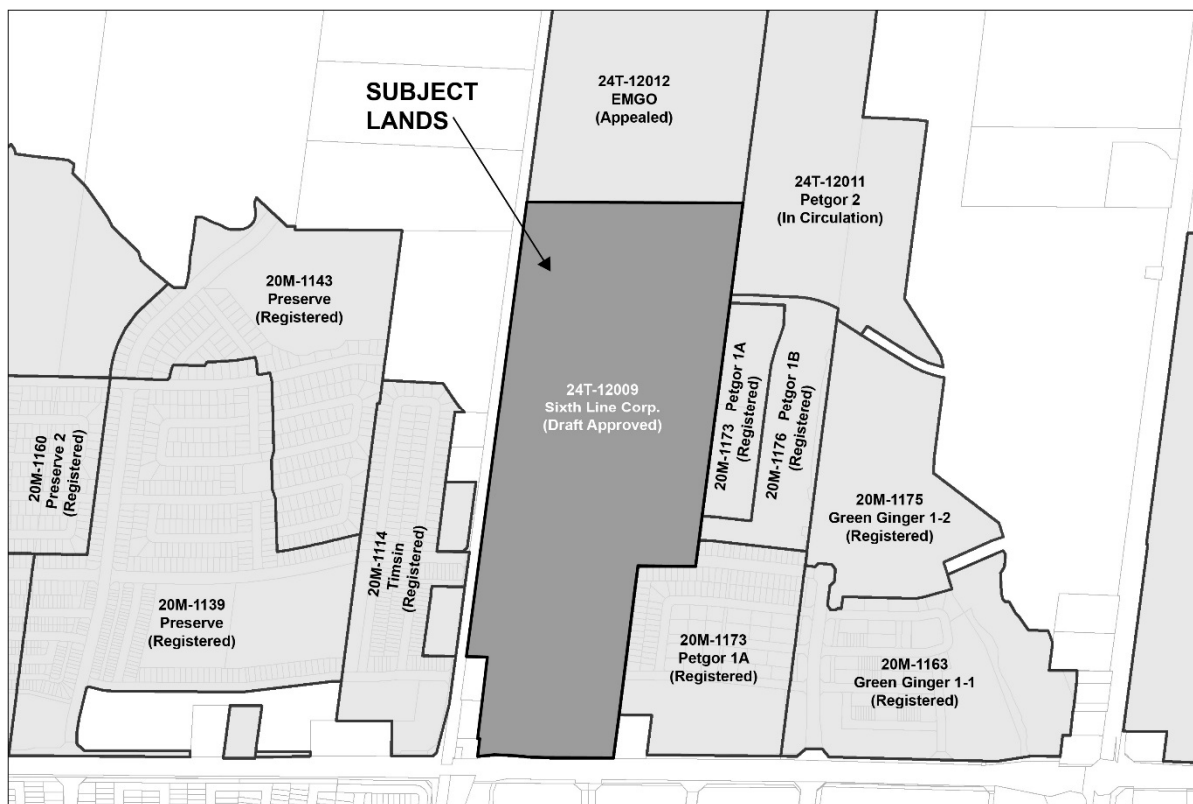


Figure 1 - Location

Site Description

The subject property is approximately 38 hectares in size, with 254 metres of frontage along Dundas Street, and 859 metres of frontage along Sixth Line. The property is predominantly vacant and is currently being pre-serviced in accordance with the approved draft-plan of subdivision.

Rear Yard Setback / Rear Yard Projection

The current zoning applicable to the eighteen proposed future lots, for which the changes to the rear yard setback / rear yard projection regulation are requested, is Neighbourhood Centre, special provision 7 (NC sp:7). The minimum rear yard setback in the NC sp:7 zone for a street-access single detached dwelling is 6 metres. The proposed rear yard setbacks for street-access single detached dwellings by the applicant range from 5.1 metres to 3.06 metres.

The applicant has indicated that the home builder was mistakenly of the understanding that single detached dwellings designed to conform to the General Urban Special Provision 3 Zone (GU sp:3) would also conform to the NC sp:7 zone. The GU zone includes a provision which allows a one-storey portion of the dwelling

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to project into the rear yard with a minimum setback of 3 metres for a maximum of 45% of the dwelling width measured at the rear of the main building. The NC zone permits single detached dwellings but does not include this same provision. The applicant has advised that the single detached dwellings marketed and sold on these eighteen proposed future lots within the NC sp:7 zone do not comply with the current zoning. A change to the zoning is required in order for the proposed models to be permitted on the eighteen proposed future lots once the plan is registered.

Zoning By-law 2016-103 proposes the following zoning regulations for single detached dwellings for the eighteen proposed future lots (Block 2 lands in Figure 2 below).

In addition to the permitted uses and regulations of the Neighbourhood Centre (NC-1) Performance <i>Zone</i> , the following regulations shall apply:		
Provision	Existing Regulation	Proposed Regulation
A one <i>storey</i> addition for a <i>single detached dwelling street access</i> attached <i>private garage</i> may project into the <i>rear yard</i> with a minimum setback of 3 m for a maximum of 45% of the <i>dwelling</i> width measured at the rear of the main building for lands identified as Block 1 lands on Figure 8.7.1 only.	Not included	Included
Minimum <i>rear setback</i> for lands identified as Block 1 lands on Figure 8.7.1 only	6 m	7 m

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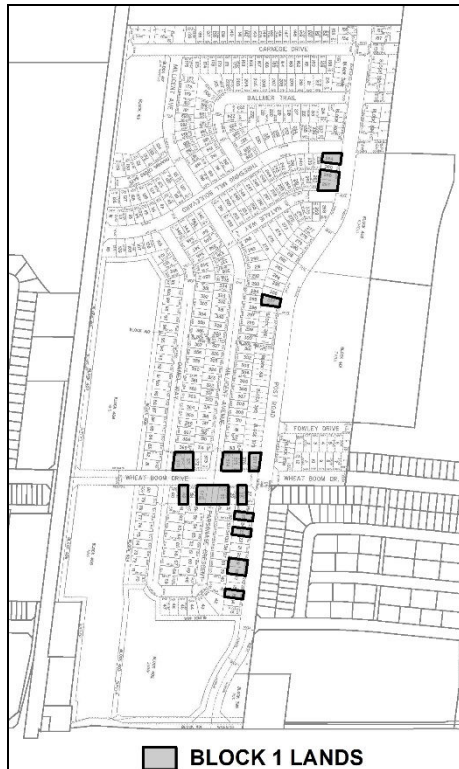


Figure 2 – Block 1 Lands

Lot Depth

The current zoning applicable to the seven proposed future lots, for which the changes to the maximum lot depth regulation are requested, is Neighbourhood Centre, special provision 7 (NC sp:7). There is no maximum lot depth for townhouse dwelling units in the NC sp:7 zone and therefore, at the time of draft approval, the proposed plan of subdivision was deemed to meet the requirements of the approved zoning.

The applicant is now proposing to develop single-detached dwellings on these lots. Single detached dwelling is a permitted building type in the NC sp:7 zone. The overall density for the subdivision will continue to meet the density requirements of the North Oakville East Secondary Plan.

The maximum lot depth for single detached dwellings in the NC Zone, however, is 30 metres. The lot depths of the seven proposed future lots range from 30.4 metres to 33.4 metres. The modification to the maximum lot depth regulation would accommodate the applicant's desire to construct detached dwellings on these lots. The applicant has advised that offers of purchase and sale have already been completed for the lots.

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Proposed Zoning By-law 2016-103 would establish a maximum lot depth of 34 metres for single detached dwellings for the seven proposed future lots as indicated in the table below (Block 2 lands in Figure 3 below). In addition, the proposed amendment will increase the minimum rear yard setback for these extended lots. This will help to ensure that the dwelling will be generally located an equivalent distance from the public street as a dwelling on a lot with a maximum 30-metre lot depth.

In addition to the permitted uses and regulations of the Neighbourhood Centre (NC-1) Performance <i>Zone</i> , the following regulations shall apply:		
Provision	Existing Regulation	Proposed Regulation
Notwithstanding the maximum <i>lot depth</i> for a <i>single-detached dwelling</i> in Section 7.5.8.1, the maximum <i>lot depth</i> for a <i>single-detached dwelling</i> for lands identified as Block 2 on Figure 8.7.2 only	30 m	34 m
Minimum <i>rear setback</i> for lands identified as Block 2 lands on Figure 8.7.1 only	6 m	7 m

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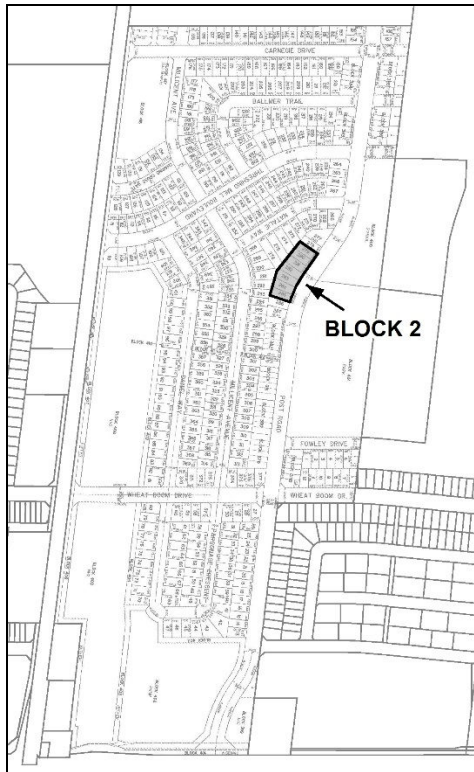


Figure 3 – Block 2 lands

Holding Provisions

Staff have requested the addition of two holding provisions to be included as part of the Zoning By-law Amendment. Although the holding provision is being processed as part of the Zoning By-law Amendment, the holding provision is unrelated to the merits of the proposed changes to the regulations of the Zoning By-law. See details regarding these provisions under the heading 'Holding Provisions' in the 'Planning Analysis' section of this report below.

POLICY FRAMEWORK:

The application is subject to the following policy framework: the Provincial Policy Statement (PPS 2005 and 2014), the Growth Plan for the Greater Golden Horseshoe (2006), the Halton Region Official Plan, and the Oakville Official Plan (North Oakville East Secondary Plan) and the North Oakville Zoning By-law.

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

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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 subject application is consistent with the new PPS.

Growth Plan for the Greater Golden Horseshoe

Although the North Oakville East Secondary Plan (NOESP) predates the Growth Plan, appropriate consideration has been given to the Growth Plan policy. The Growth Plan for the Greater Golden Horseshoe came into effect in June, 2006 and generally directs new growth to the built-up areas of the community through intensification. Regarding development in designated greenfield locations, the Growth Plan requires new development to provide a diverse mix of land uses, contribute to creating complete communities and provide densities and an urban form that supports walking, cycling and transit services.

The proposal generally conforms to the Growth Plan as it supports the development of a previously-approved comprehensive draft plan with a mix of land uses and residential densities.

Region of Halton Official Plan

The lands are designated "Urban Area" according to the Region's Official Plan. Lands within the "Urban Area" are intended for residential and employment growth. The Urban Area is also "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".

Regarding ROPA 38 to Halton Region's Official Plan, the Ontario Municipal Board has issued a series of decisions regarding the partial approval of ROPA 38. Development applications are being reviewed in accordance with the approved policies of ROPA 38. 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.

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Regional staff have no objections to the approval of the proposed Zoning By-law Amendment.

North Oakville East Secondary Plan (Oakville Official Plan)

The North Oakville East Secondary Plan (NOESP) establishes the detailed planning framework for future urban development between Dundas Street and Highway 407, east of Sixteen Mile Creek.

The proposed future lots applicable to this application are located within Neighbourhood 3 of the NOESP (Figure NOE1). Figure NOE2 (Land Use) of the NOESP designates the subject lands as Neighbourhood Area.

The Neighbourhood Area designation is applicable to areas intended for the development of residential neighbourhoods. Each neighbourhood will be developed with a mix of development. Table 1 of the NOESP indicates that Neighbourhood 3 shall contain a mix of Neighbourhood Centre and General Urban categories.

The lots subject to this application are currently zoned Neighbourhood Centre in keeping with the Neighbourhood Centre land use category. Medium density residential uses are permitted in the Neighbourhood Centre land use category. Single detached dwellings on small lots are defined as a medium density residential use in the NOESP. The NOESP does not provide a definition for small lot.

The proposal is consistent with the North Oakville East Secondary Plan in terms of land use and housing form.

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

The North Oakville Zoning By-law establishes a range of permitted uses and regulations for the North Oakville East and West Secondary Plans. The proposed future lots applicable to this application are zoned Neighbourhood Centre, Special Provision 7 (NC sp:7).

The effect of the subject application would be to modify the site-specific regulations which were originally approved on July 7, 2014 to accommodate the subject proposal.

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PLANNING ANALYSIS:

Planning matters considered

Proposed Zoning By-law

Rear Yard Setback / Rear Yard Projection

The applicant has requested that the provision to allow a one-storey addition to project into the rear yard with a minimum setback of 3 metres for a maximum of 45% of the dwelling width measured at the rear of the main building equivalent to the provision that currently exists in the GU Zone be applied to 18 lots in the NC:7 zone. The main concern of staff with this request is that the NC zone permits a smaller rear yard setback of 6 metres whereas the GU zone requires a minimum rear yard setback of 7 metres. This could result in the main massing of the 2-storey house with a one-storey projection being located one metre closer to the rear property line than is currently permitted in a GU zone. In order to support the proposed provision for the one-storey projection, staff required that the proposed amendment also include a revised minimum rear yard setback of 7 metres for eighteen proposed future lots to also reflect the GU zone. This will then ensure that adequate setback of the main 2-storey portion of the proposed houses is maintained and that the resulting rear yard conditions for these lots will be equivalent to those of a GU-zoned lot.

The proposed rear yard setback / rear yard projection amendment will have no visible effect on the design of the subdivision as viewed from a public street.

With the incorporation of the staff-requested revisions to the proposed Zoning By-law Amendment, staff have no further concerns with the proposed amendments.

Lot Depth

The lot depth amendment is only required because the applicant is proposing to construct single detached dwellings within the NC sp:7 Zone. A maximum lot depth provision does not apply to any other permitted building type in the NC sp:7 Zone. Single detached dwellings are a permitted building type within NC sp:7.

The proposed amendment will generally only result in a rear yard amenity space of greater depth than would otherwise be provided. The abutting residential lots at the rear of the subject lands (zoned GU sp:3) also have increased rear yard amenity depths than is typical for the remainder of the subdivision. Both are a result of the roadway alignments previously approved as part of the draft approval for the overall plan of subdivision.

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Staff have requested that the proposed amendment include an increased minimum rear yard setback from 6 metres to 7 metres to ensure that any proposed dwelling would be located on the property in generally the same location as a lot with a maximum lot depth of 30 metres. This will ensure that any dwelling on the lot will not be set back further from the front lot line than it would otherwise have been located on a lot with a 30-metre depth.

Should this proposed amendment not be approved, a likely alternative would be to red-line the draft-approved plan of subdivision to decrease the subject lots to comply with the current zoning and increase the lot depth of the abutting GU sp:3 lots. The resulting number of units and dwelling types within the subdivision would remain the same, with no visible change to the subdivision as viewed from the public street, albeit with substantially dissimilar rear yard amenity area sizes. From both a planning and developer perspective, it is more desirable to have a balanced rear yard amenity depth across the block, consistent with this proposal.

Holding Provisions

Staff have requested the addition of two holding provisions to be included as part of the Zoning By-law Amendment. The holding provisions will provide staff the ability to permit the registration of the plan of subdivision in its entirety – as opposed to a phased registration – in a manner which continues to meet the requirements of Conservation Halton, Region of Halton and the Town. These holding provisions are unrelated to the maximum lot depth and rear yard setback / rear yard projection amendments discussed above.

H15

Holding Provision H15 limits development on the northwestern most corner of the plan subdivision to legal uses, buildings and structure existing on the lot due to Regional flooding concerns. These lots are within the area that was to form the second phase of the development. This holding provision can be lifted upon written confirmation from Conservation Halton that the lots are no longer susceptible to flooding under the Regional Storm event to the satisfaction of the Town of Oakville.

The Regional flooding concerns on these lots will be alleviated upon approved development of lands on the west side of Sixth Line across from these lots. At present, the Town has not received any development applications for the lands west of Sixth Line and the timing of redevelopment is unknown. While compliance with the requirements of Conservation Halton regulations would prevent construction prior to this issue being resolved, addition of a holding provision would add clarity and allow staff the ability to proceed with registration of the subdivision in its entirety prior to development of the lands west of Sixth Line.

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H16

Holding Provision H16 limits development on the applicable lots to legal uses, buildings and structures existing on the lots until the ultimate channel alignment and ultimate pond outlet construction and certification has been completed.

West Morrison Creek is currently aligned through a temporary alignment that is allowing construction of the ultimate alignment for the creek to proceed at present. Similarly, a temporary erosion and sediment control pond is currently in place as an interim measure during construction and grading of the subdivision. The interim channel, pond, and pond outlet currently present on site are capable of supporting a limited number of units to be constructed within the subdivision.

Completion, stabilization and certification of the ultimate channel and pond outlet is required prior to registration of the plan of subdivision, as per the approved conditions of draft plan approval. The holding provision would allow registration of the subdivision in its entirety to permit construction of these limited number of units before completion of the ultimate channel and pond. The holding provision will ensure that the developer is only able to receive building permits for lots that can be supported by the temporary erosion and sediment control pond currently existing on site.

Completion of the ultimate channel and pond outlet will be secured through the subdivision agreement in addition to the holding provision. A restriction under section 118 of the Land Titles Act is also proposed to prevent transfer of the frozen lots until the condition to complete the ultimate channel and pond is fully satisfied.

This proposed holding provision will enable development of this subdivision to proceed in accordance with the requirements of Conservation Halton, Region of Halton and the Town.

Phasing

The applicant is seeking registration of the plan of subdivision in its entirety, which includes lands that are in Phase 2 of the North Oakville East Secondary Plan and subject to applicable phasing policies. When these lands were draft-approved, a separate holding provision – which requires the phasing policies of the NOESP to be met to the satisfaction of the Town – was applied to the Phase 2 portion of this subdivision. This holding provision continues to remain in effect.

At the time of draft plan approval, it was anticipated that Phase 2 lands would be registered separately from Phase 1 lands at a point when the phasing policies of the NOESP had been fully satisfied. Since that time, the approach to Phase 2 lands has been evolving as staff continue to review and assess the merits of multiple

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development applications in Phase 2. It has become apparent that at least some works within Phase 2 need to be constructed and transferred into public ownership to allow registration of lands within the employment area to proceed. As a result, the evolving approach is now to apply a holding provision to prevent full development while allowing draft approval, registration, and construction of necessary infrastructure to proceed in a logical manner. This approach is recommended in the Petgor, Phase 2 subdivision in a report appearing elsewhere in the agenda and would be applied by the Town to EMGO, which is before the Ontario Municipal Board.

This set of holding provisions will continue to ensure that full development of Phase 2 lands does not occur until the phasing policies of NOESP are satisfied. At the same time, the appropriate and logical sequence of mutually-supportive draft plan approvals, pre-servicing agreements, subdivision agreements and plan registrations are able to occur. This will fix the public street network, secure necessary land and infrastructure in public ownership, and provide the water, wastewater and stormwater management servicing needed to facilitate coordinated development in Phase 2 of North Oakville.

Matters raised by the Public

As part of the minor variance application submitted by the applicant to the Committee of Adjustment, staff requested that the applicant provide notice to purchasers of the affected lots as well as any purchaser of an abutting lot. No concerns or objections from the public were received when the minor variance went to the Committee of Adjustment for consideration.

Similarly, no concerns or objections have been received by staff on the subject application at the time of the writing of this report.

If public input is received at the public meeting, the recommendations of this report or Zoning By-law Amendment could be amended to address how such submissions have affected Council's planning decisions.

CONCLUSION:

The Planning Department undertook a circulation of the application to ensure that all technical and financial matters have been satisfactorily addressed. There are no outstanding financial, legal or planning issues to be resolved. Accordingly, the proposed Zoning By-law Amendment meets the criteria established in the Section 51(24) of the *Planning Act* and is consistent with the North Oakville East Secondary Plan (the Official Plan for the subject lands).

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The subject report recommends approval of the site specific Zoning By-law Amendment which will have the effect of amending the regulations pertaining to maximum lot depth and dwelling projections as they apply to 25 lots within draft plan of subdivision 24T-12009. The proposed and existing holding provisions will facilitate timely registration of the plan of subdivision once applicable conditions have been satisfied by effectively withholding building permit issuance from portions of the draft plan until such time stormwater management and other issues have been resolved to the satisfaction of Conservation Halton and the Town.

The public benefit of the timely registration of the draft plan is that this plan registration will complete the assembly of the Neighbourhood Park and School blocks shared between this plan and the registered subdivision to the east (20M-1173 / 20M-1176). This would enable development of both the neighbourhood park and/or school to proceed as scheduled.

While the need for the amendments is attributed to misinterpretation of the current zoning by the developer / homebuilder, the fact that the homes have been sold gives rise to the consideration of the purchasers situation in this case. In the event that the planning merits had been deemed inappropriate and not supportable, the developer / homebuilder would be required to default on their purchase/sale agreements and/or resolve the sale with a revised building design that complied with the zoning requirements. It is staff's opinion that this later step is unnecessary and avoidable in this situation as the requested zoning amendments are supportable.

Staff will be reviewing this situation with the development community through the Development Liaison Committee and exploring means to avoid such situations in the future.

On this basis, staff recommend approval of the application.

CONSIDERATIONS:

(A) PUBLIC

Notice for the meeting regarding this development application was provided through a mailing to all properties within 120 metres of the subject property.

(B) FINANCIAL

None arising from this report.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

The application was circulated to internal and external departments and agencies for review. Concerns from the circulated departments and agencies raised have been addressed in this staff report.

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(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 generally complies with the sustainability goals and objectives of the North Oakville East Secondary Plan.

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