

Attachment #10
Agency & Stakeholder Detailed Comments
File DEV-38-21 (SW-2021-13)

Town of Whitby Finance Department

The applicant shall confirm that any outstanding property tax balance is paid.

Town of Whitby Community Services Department

Cash-in-lieu of parkland dedication at a rate that is consistent with the Planning Act and the Department's standard practice regarding medium density residential development.

Town of Whitby Strategic Initiatives Division

The Sustainability section acknowledges and appreciates the sustainability considerations outlined in the Whitby Green Standard Checklist and provides the Sustainability Rationale report. We can confirm that this meets the Towns requirements.

Matters pertaining to sustainability measures, including mandatory and voluntary measures will be addressed as part of the Site Plan approval process and any required commitments will be outlined in the Site Plan Agreement.

Town of Whitby Engineering Services Department

Engineering Services has no objection and no conditions of Draft Plan Approval.

Durham District School Board

No comment.

Durham Catholic District School Board

Planning staff at the Durham Catholic District School Board have reviewed the above noted applications and have no objections to the proposed development of 52 townhouse units.

Conseil Scolaire Viamonde

The Conseil Scolaire Viamonde has no comment.

Durham Region (Planning, Works, & Transit)

On August 28, 2018, the Local Appeal Tribunal allowed the proponent's appeal subject to various conditions requested by the Region to address its outstanding delegated Provincial Plan Review responsibilities. The LPAT included the following Regional conditions:

- The preparation of a Land Use Compatibility Study;
- Receipt of a clearance letter from the Ministry of Tourism, Culture and Sport (now called the Ministry of Heritage, Tourism, Sport, and Culture Industries) in support of a previously prepared Stage 1 Archaeological Site Assessment; and
- Receipt of a Record of Site Condition prior to final issuance of Site Plan Approval.

Purpose of the Draft Plan of Subdivision

The proposed draft plan of subdivision would create a medium density development block (Block 1) in order to facilitate the creation of 52 three to four storey condominium townhouse units fronting on a private road providing vehicular access from Nichol Avenue within the proposed block. It is our understanding that the proponent will also require a future part lot control exemption by-law and a draft plan of condominium application to create privately-owned units within the medium density development block.

The draft plan also proposes a future road widening block (Block 2) that is anticipated to be conveyed to the Region either through this draft plan of subdivision or the related concurrent site plan application (SP-15-21). The proponent's site plan application with the Town will review the technical aspects of the proposed development.

Provincial and Regional Land Use Policies

The Region's 2016 comments determined that the proposed rezoning application to permit a future townhouse development was considered consistent with the Provincial Policy Statement (PPS) and conformed to the Growth Plan for the Greater Golden Horseshoe (Growth Plan) and the Durham Regional Official Plan (ROP). However, the proponent was required to demonstrate that the future development could be considered compatible with nearby industrial (less sensitive) land uses.

Following our initial comments, some of the above-noted land use policies were updated. Our comments remain regarding consistency and conformity with the applicable Provincial and Regional land use plans and policies remain generally supportive. Our updated comments are summarized below:

- Residential growth that provides for a range of housing, intensification and redevelopment is encouraged within settlement areas and provides for a range of

housing, intensification and redevelopment which efficiently utilizes land resources, infrastructure, and public services (PPS, 2020);

- The subject lands are located within the Town of Whitby's Built-up Area. At this time, a minimum of 40 percent of all residential development occurring annually must be within "Built-up Areas," designed to achieve complete communities through intensification (Growth Plan, 2020);
- The ROP designates the subject lands as "Living Areas" in the "Urban System", which are primarily intended to be used for a range of housing purposes at higher densities along Arterial Roads. The ROP classifies Hopkins Street (Durham Regional Road 36) as a Type 'B' Arterial Road. The ROP also discourages reverse lot frontages off Arterial Roads (ROP, 2020); and
- The above-noted land use policies also require that proposed sensitive land uses (e.g., residential) demonstrate appropriate separation from less sensitive (e.g., industrial) land uses.

Delegated Provincial Plan Review Responsibilities

Environmental Site Assessment (ESA) and Record of Site Condition (RSC) Fortis Environmental Inc. (Fortis) prepared a Phase One and Two ESA dated September 5, 2021 and October 18, 2021 respectively in support of the proposed development.

The findings of the report concluded that in accordance with Ontario Regulation 407/19, the soil and groundwater monitoring samples taken from subject lands meet Table 2 Site Condition Standards (SCS) not resulting in any exceedances.

Since this development proposes a more sensitive land use (e.g., from either industrial/community/commercial to either residential/parkland/institutional), Fortis has also submitted a Record of Site Condition (RSC) to the Ministry of the Environment, Conservation and Parks (MECP) to review their ESA reports. Their submission is still under review by the Ministry.

As a condition of draft approval, the proponent must provide the Region with a copy of MECP's Acknowledgement Letter, noting that the RSC is filed to the Ministry's Environmental Site Registry. Any supporting/updated documents associated with the RSC should also be forwarded to the Region for our records.

Land Use Compatibility between Existing Non-Sensitive and Proposed

Sensitive Land Uses

The proposed residential development is situated in proximity to industrial uses south of the subject lands. As noted earlier, the Tribunal upheld the Region's request to include conditions that the Owners of the subject lands are required to fulfill to the Region's satisfaction. One of which included the completion of a Land Use Compatibility Assessment (LUCA).

Following the Tribunal's decision, the previous Owner submitted a LUCA study prepared by Novus Environmental Inc. (Novus) dated August 22, 2018 and revised January 17, 2019. The study addressed both environmental air quality and noise impacts to determine if the future townhouse development will pose land use conflicts with existing nearby industrial land uses and if mitigation measures can be included where applicable. The Region's Peer Review consultant (Gutteridge Haskins & Davey – GHD) reviewed the LUCA and considered it satisfactory in support of a future townhouse development. As such, the Region prepared a letter to the Town of Whitby dated March 22, 2019 noting no concerns with the original study.

The following studies have also been submitted in support of the proposed development:

- A Compatibility & Mitigation Study for Air Quality, Dust, Odour, Noise & Vibration, prepared by SLR Consulting (Canada) Ltd. (SLR) dated November 2021; and
- An Environmental Noise Assessment, prepared by Valcoustics Canada Ltd. dated November 24, 2021.

Consistent with the Novus LUCA study, both studies analysed potential land use compatibility impacts the proposed townhouse development might pose on existing industrial uses and vice-versa as well as from nearby transportation and stationary noise sources and their recommended mitigation measures required. Both studies concluded the proposed uses were appropriate subject to mitigation measures.

The Region is in general agreement with the conclusions of the studies; however, we will require a technical peer review of the studies in order to definitely conclude that the findings of the study are appropriate. Accordingly, as a condition of draft approval, the proponent will be required to have SLR's LUCA study peer reviewed by the Region's Peer Review Consultant. The peer review will confirm if the intensity of existing land uses has changed since our initial sign off, which may determine if SLR's proposed mitigation measures are appropriate for the proposed development. The approved mitigation measures must be included into an appropriate Agreement with the Town, to the satisfaction of the Region of Durham.

As noted in our initial comments, since vibration studies are reviewed by the appropriate railway authority, the Town should also ensure that the proponent submits SLR's LUCA to the Canadian Pacific Railway (CP Rail) for review. The proponent must also incorporate warning clauses/mitigation measures as per CP Rail's requirements. Such requirements must also be incorporated into an appropriate Agreement with the Town.

Archeological Site Assessment

According to the Region's Archeological Potential Model, the property is located within a zone of archeological potential. According to our records, in support of the previous rezoning application, Archaeological Consultants & Contractors (ACC) prepared a

Stage 1 Archaeological Site Assessment dated June 27, 2018 for the subject lands. ACC findings revealed that the subject lands experienced significant intensive and extensive disturbance due to the following:

- Significant regrading below topsoil associated with a parking lot; and
- The presence of sewer and stormwater management infrastructure along the abutting rights-of-ways on Hopkins Street and Nichol Avenue.

Based on the above, ACC concluded that a Stage 2 Archaeological Assessment is not required for the subject lands. The Region reviewed ACC's findings and conclusions and found their analysis satisfactory.

However, the proponent has not submitted an Archaeological Assessment with their proposal. As a condition of draft plan, the proponent must submit a clearance letter from the Ministry of Heritage, Tourism, Sport, and Culture Industries' (MHSTCI), along with any additional supporting information, which indicates that all cultural heritage resource concerns on the property have been satisfied. The proponent can conduct the following by undertaking the following:

- Retaining ACC to submit the above-noted Stage 1 Archaeological Assessment report to MHSTCI; or
- Hire their own Archaeologist and prepare an independent Archaeological Assessment report for Regional review prior to submitting the report to MHSTCI.

Regional Servicing

Municipal Servicing

The Development, Block 1 shall only be permitted a single set of municipal service connections.

Water Supply

The subject lands are located within the Zone 1 water supply system for the Town of Whitby. The estimated static water pressure for this area ranges between 553 kilopascals (kpa) or 80 pounds per square inch (psi) to 592 kpa (85 psi). The estimated static water pressure exceeds the maximum allowance of 550 kpa (80 psi), therefore, a private pressure reducing valve will be required for this site. The proposed development must have a water meter room, which complies with Regional Standards.

Sanitary Sewer Servicing

In accordance with the Region of Durham [Sewer Use By-Law](#), we will not permit foundation drains and/or roof leaders to connect to the sanitary sewer system. Sanitary capacity is on a first come first serve basis and is only allocated at the time of signing a development application.

Servicing Plan

The Region prefers that the proponent use the existing 100-millimetre diameter (mm dia.) domestic water service and the existing 200 mm dia. fire line that has been extended from the existing 300 mm dia. Polyvinyl chloride (PVC) watermain within the Nichol Avenue right-of-way (R.O.W.) to the property line of the subject lands.

The proposed water services must be extended first directly to the meter room before distribution throughout the subject lands. This may require the relocation of the proposed water meter room. If the existing water services are not suitable and cannot be used, then the existing water services shall be abandoned and plugged at the main at the proponent's expense.

The location of the proposed inspection maintenance must be shifted so that it is offset 1.5 metres (m) from the property line to its center. The proponent must decrease the proposed sanitary service grade to the drop structure to a maximum of 1.8 percent (%) as per Regional Standard [S-100.080](#).

Waste Management

The Region of Durham may provide recycling and waste collection service to residential units on private property in the Town of Ajax, the City of Pickering, the Townships of Scugog, Brock and Uxbridge and the Municipality of Clarington. Only Blue Box recycling collection may be provided by the Region in the City of Oshawa and the Town of Whitby in cases where Oshawa or Whitby have decided to provide municipal waste collection services.

On June 3, 2021, Ontario filed [O.Reg. 391/21](#) under the *Resource Recovery and Circular Economy Act* that will make product producers responsible for the Blue Box program including collection. Once transition occurs, The Regional Municipality of Durham will no longer be the service provider for the Blue Box program. The transition of responsibility of the Blue Box program to product producers in Durham Region is expected to occur in 2024. Please see [O Reg. 391/21](#) for full details.

In all cases, the subject lands must be designed in accordance with the Guidelines for municipal front-end waste collection service on Private Property which are outlined in Schedule "P" of the [Regional Waste By-law 46-2011](#), in order to receive Regional waste services. A Waste Management Plan must be submitted to the Region with the Site Plan application if the proponent wishes to receive Municipal collection. The plan must present in detail how the site meets Regional guidelines.

Transportation Infrastructure

The proposed ROW widening along the Hopkins frontage is consistent with the previous work completed by Counterpoint Engineering in 2017. The Region proposes a road widening on Hopkins Street and grade separation of the Canadian Pacific Railway (CP

Rail) crossing. This project will be subject to an Environmental Assessment (EA), which is currently scheduled to commence in 2022, with construction beyond 2026.

In the interim, a traffic signal is scheduled to be installed at the intersection of Hopkins Street and Nichol Avenue . These intersection improvements will be the Region's responsibility and the interim signal installation is not impacted by the proposed development. The Region has been working with the Town of Whitby to establish a pedestrian connection along Hopkins Street between Nichol Avenue and Dundas Street. We have recognized the need for this connection, and this proposed development will increase the demand further. The challenges relate to the lack of available ROW and the need for utility relocations. The Highway 2 Bus Rapid Transit project and the proposed interim signals at Nichol and Hopkins, provide further opportunity to explore the options in consultation with the Town of Whitby and adjacent property owners. The Region will touch base with the Town of Whitby to continue these discussions.

Transportation Planning

This application was reviewed from a transportation planning perspective and it has been determined that the proposed residential development does not present any significant transportation impacts.

Durham Region Transit

This application was reviewed from a transit perspective and notes that the proposed development provided good sidewalk connectivity and onto the abutting municipal roads. We also highlight that there are no sidewalks on either side of Hopkins Street between the proposed development and Dundas Street East to access existing high frequency transit. No sidewalks will have a major impact on the ability for residents and/or visitors to effectively use active transportation and/or transit.

Conclusion

The proposed plan of subdivision application will implement a decision of the Local Planning Appeal Tribunal regarding the related zoning by-law application that is intended to facilitate the development of up to 52 townhouse units. This development proposal and the studies/reports submitted in support of the applications have demonstrated that the proposed plan of subdivision generally complies to the applicable Regional and Provincial Plans and Policies.

Based on the foregoing and subject to our conditions, the Region has no objections to draft approval of this plan of subdivision.

The requested conditions of draft approval must be complied with prior to clearance by the Region for registration of this plan. Please note that if further revisions are required/proposed to this plan prior to draft approval, the revised plan should be

recirculated to the Region to confirm compliance with applicable Regional standards/requirements.

The Owner must also provide a land use table prepared by an Ontario Land Surveyor to the satisfaction of the Region. The land use table should provide lot area calculations for the proposed land use(s) allocated within the draft plan of subdivision.

In addition to sending the Region copies of the draft approved plan and associated conditions of approval, at such a time as draft approval is in effect, please e-mail me and carbon-copy the Regional Planner of record a digital copy (in PDF and Word format) of the City's conditions of draft approval.

Canadian Pacific Railway

CP recommends that the below condition be inserted in all property and tenancy agreements and offers of purchase and sale for all dwelling units in the proposed building(s):

“Canadian Pacific Railway and/or its assigns or successors in interest has or have a railway right-of-way and/or yard located adjacent to the subject land hereof with operations conducted 24 hours a day, 7 days a week, including the shunting of trains and the idling of locomotives. There may be alterations to, or expansions of, the railway facilities and/or operations in the future, which alterations or expansions may affect the living environment of the residents in the vicinity. Notwithstanding the inclusion of any noise and/or vibration attenuating measures in the design of the development and individual dwellings, Canadian Pacific Railway will not be responsible for complaints or claims arising from the use of its facilities and/or its operations on, over, or under the aforesaid right-of-way and/or yard.”

Should the captioned development proposal receive approval, CP respectfully requests that the recommended guidelines be followed.

Central Lake Ontario Conservation Authority

Outstanding engineering comments related to the review of this application has been addressed to our satisfaction. As such, we have no further outstanding comments related to this application. Conditions of Draft Plan Approval, are listed below.

1. That prior to any on-site grading or construction or final approval of the plan, the Subdivider shall submit to, and obtain approval from the Town of Whitby and the Conservation Authority for reports describing the following:
 - a) the intended means of conveying stormwater flow from the site, including use of stormwater techniques which are appropriate and in accordance with provincial guidelines; The stormwater management facilities must be

designed and implemented in accordance with the recommendations of the Corbett Creek Master Drainage Study.

- b) the intended means whereby erosion and sedimentation and their effects will be minimized on the site during and after construction, in accordance with provincial guidelines. The report must outline all actions to be taken to prevent an increase in the concentration of solids in any water body as a result of on-site, or other related works.
 - c) the intended means to install, access, maintain and monitor any proposed Low Impact Development (LID) measures as part of this development.
- 2. The Subdivider shall satisfy all financial requirements of the Central Lake Ontario Conservation Authority.
 - 3. The subdivision agreement between the Subdivider and the Town of Whitby shall contain, among other matters, the following provisions:
 - a) The Subdivider agrees to carry out the works referred to in Condition 1 to the satisfaction of the Central Lake Ontario Conservation Authority.
 - b) The Subdivider agrees to maintain all stormwater management and erosion and sedimentation control structures operating and in good repair during the construction period, in a manner satisfactory to the Central Lake Ontario Conservation Authority.
 - c) In order to expedite clearance of Condition 3 a copy of the fully executed subdivision agreement between the area municipality and the owner should be submitted to the Authority.

To apply for a clearance letter that confirms that these conditions have been satisfied for this development, please submit the following items for our consideration:

- 1. Final M-Plan for the Draft Plan of Subdivision
- 2. Subdivision Agreement
- 3. A cover letter indicating how each of these conditions have been satisfied.
- 4. Outstanding Plan Review Fees must be paid: a. 50% /ha fee = \$1295.40
 - a) b. Clearance Fee - \$3600.00