

# Town of Whitby

## Staff Report

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**Report Title: DEV-17-22: Official Plan Amendment Application OPA-2022-W/02, Draft Plan of Subdivision Application SW-2022-03, Zoning By-law Amendment Application Z-13-22, 1351637 Ontario Limited (Mansouri Group), 4400 & 4440 Garden Street**

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**Report to:** Committee of the Whole

**Date of meeting:** September 18, 2023

**Report Number:** PDP 37-23

**Department(s) Responsible:**

Planning and Development Department  
(Planning Services)

**Submitted by:**

R. Saunders, Commissioner of Planning  
and Development

<b>Acknowledged by M. Gaskell, Chief Administrative Officer</b>
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**For additional information, contact:**

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### 1. Recommendation:

1. That Council approve Official Plan Amendment Number 132 to the Whitby Official Plan (OPA-2022-W/02), as shown on Attachment #7, and that a By-law to adopt Official Plan Amendment Number 132 be brought forward for consideration by Council;
2. That the Clerk forward a copy of the Planning Report PDP 37-23, two (2) copies of the adopted Amendment, and a copy of the by-law to adopt Amendment Number 132 to the Whitby Official Plan, to the Region of Durham's Commissioner of Planning and Economic Development;
3. That Council approve the Draft Plan of Subdivision (File No. SW-2022-03), subject to the comments included in Planning Report PDP 37-23 and the conditions of draft plan approval included in Attachment #10;
4. That Staff be authorized to prepare a Subdivision Agreement;

5. That the Clerk forward a Notice to those parties and agencies who requested to be notified of Council's decision, including the Region of Durham's Commissioner of Planning and Economic Development;
6. That Council approve the amendment to Zoning By-law # 1784, (File No. Z-13-22), as outlined in Planning Report No. PDP 37-23; and,
7. That a by-law to amend Zoning By-law # 1784 be brought forward for consideration by Council.

## 2. Highlights:

- Applications for Official Plan Amendment, Draft Plan of Subdivision and Zoning By-law Amendment have been submitted by Bousfields Inc. on behalf of 1351637 Ontario Limited (Mansouri Group) for lands municipally known as 4400 & 4440 Garden Street.
- The proposal is to change the land use designation on a portion of the Subject Land from Low Density Residential 1 to Medium Density Residential and adjust the boundary of the Environmental Protection/Conservation Lands designation, to facilitate the proposed development of 155 residential units, consisting of 18 single detached units fronting on Robert Attersley Drive East and 65 townhouse units that are two-storeys in height and 72 back-to-back townhouse units that are three-storeys in height on an internal private (condominium) road.
- Existing buildings at 4440 Garden Street are proposed to be removed.
- The proponent will be required to submit a Site Plan Application and Draft Plan of Condominium at a later date.
- The proponent will be required to consolidate the property ownership into one parcel.

## 3. Background:

### 3.1. Site and Area Description

The subject land is located on the west side of Garden Street, north of Robert Attersley Drive East, on properties municipally known as 4400 & 4440 Garden Street (refer to Attachment #1). There is an existing dwelling and associated accessory buildings on 4440 Garden Street, which are proposed to be removed. The subject land is approximately 7.08 hectares (17.5 acres) in size.

Surrounding land uses include:

- Town-owned open space woodlot to the west;
- privately owned forested land with single detached dwellings to the north and north-east;
- townhouse dwellings under construction to the east, and,

- single detached and linked dwellings to the south (refer to Attachment #2).

### **3.2. Applications and Proposed Development**

An Official Plan Amendment Application has been submitted to change the land use designation on a portion of the Subject Land from Low Density Residential 1 to Medium Density Residential and to adjust the boundary of the Environmental Protection/Conservation Lands designation.

A Draft Plan of Subdivision Application has been submitted for 155 residential units, consisting of 18 single detached units fronting on Robert Attersley Drive East and 65 2-storey townhouse units and 72 3-storey back-to-back townhouse units on an internal private (condominium) road, as well as an open space block containing a Provincially Significant Wetland.

A Zoning By-law Amendment Application has been submitted to change the zoning to permit the proposed development.

A Site Plan Application and Draft Plan of Condominium Application will be required at a later date.

### **3.3. Documents Submitted in Support**

A number of documents were submitted in support of the applications, including the following:

- A Draft Plan of Subdivision prepared by Bousfields Inc., dated April 4, 2023 (refer to Attachment #3);
- A Concept Plan prepared by Urbanscape Architects. (refer to Attachment #4);
- An Active Transportation Plan prepared by R.J. Burnside & Associates Limited, dated March 2022 (refer to Attachment #5 Excerpt);
- An Arborist Report prepared by Beacon Environmental Limited, dated April 2023, identifies the health of existing trees on the subject land and adjacent to the subject land and provides recommendations for preservation and/or removal, including compensation planting on-site and/or off-site, as well as possible cash contribution to the Town's Tree Reserve;

- An Environmental Impact Study prepared by Beacon Environmental Limited, dated May 2023, provides an assessment of significant natural heritage features on the subject land and an impact assessment of the proposed development. The Study also recommends mitigation measures including natural feature compensation and buffers, and water balance and infiltration measures;
- An Environmental Noise Feasibility Assessment prepared by R.J. Burnside & Associates Limited, dated March 2023, recommends ducting to accommodate central air conditioning and a noise warning clause for Lots 1-18 along Robert Attersley Drive East and an acoustic barrier for Lot 1 at Garden Street to mitigate transportation noise;
- A Functional Servicing and Stormwater Management Report prepared by R.J. Burnside & Associates Limited, dated April 2023, provides a review of existing and proposed water, sanitary and stormwater servicing for the site, including erosion and sediment control during construction. The Report concludes that the site can be sufficiently serviced;
- A Geotechnical Investigation Report prepared by HLV2K Engineering Limited, dated December 20, 2021, provides an assessment of the subsurface conditions including soil and groundwater conditions. The Report provides recommendations for footing options including one option with no basement and two options with basements;
- A Hydrogeological Investigation prepared by HLV2K Engineering Limited, dated March 23, 2023, summarizes the results of the subsurface investigation, hydrogeological assessment and analysis of hydraulic conductivity testing and groundwater level monitoring data. A water balance study is recommended (the study has been provided and is summarized below). Long term foundation and underfloor drainage systems are recommended for each unit to reduce hydrostatic pressure and remove seeped water;
- A Phase One Environmental Site Assessment (ESA) prepared by Terraprobe Inc., dated March 12, 2021 which concludes that a Phase Two ESA is required;
- A Phase Two Environmental Site Assessment (ESA) prepared by HLV2K Engineering Limited, dated December 23, 2021, summarizes existing geologic, hydrogeological, soil and groundwater conditions. The Assessment concludes that site condition standards are acceptable for residential use;

- A Planning & Urban Design Rationale prepared by Bousfields Inc., dated April 2022, and Addendum dated April 27, 2023, provides a summary of the site and surrounding conditions as well as an analysis of provincial, regional, and local policies. The Rationale concludes that the proposed development represents good planning and is compatible with the existing and planned residential neighbourhoods;
- A Stage 1 Archaeological Assessment prepared by Archaeological Services Inc., dated March 8, 2022, concludes that there is potential for the presence of both Indigenous and Euro-Canadian archaeological resources, therefore a Stage 2 Archaeological Assessment is recommended;
- A Sustainability Rationale and Whitby Green Standard Draft Plan Application Checklist prepared by GHD, dated April 2023, states that the proposed single detached dwellings are committed to Tier 1 Performance category;
- A Transportation Study prepared by R.J. Burnside & Associates Limited, dated March 2022, provides a summary of access and parking for the proposed development, noting two full-movement accesses are proposed on Garden Street and one full-movement access on Robert Attersley Drive East, aligned with Seven Oaks Street. The Study notes that 2 parking spaces will be provided per unit, plus 15 visitor parking spaces within the condominium area. The Study concludes that the site is designed to accommodate all modes of travel and will include internal sidewalk connections to existing sidewalks on Robert Attersley Drive East and a future sidewalk on Garden Street; and,
- A Water Balance Analysis prepared by HLV2K Engineering Limited, dated March 14, 2023, provides a pre-construction water balance and a post-construction water balance, with and without Low Impact Development (LID) measures. The Analysis notes that impervious area is expected to increase to approximately 30% for the development area, which will decrease overall infiltration and evapotranspiration and will increase overland flow runoff, which can be managed using either conventional stormwater management techniques or LID.

The above documents were distributed to relevant internal departments and external agencies for review and comment.

#### **4. Discussion:**

##### **4.1. Region of Durham Official Plan**

The subject land is designated as “Living Areas” on Schedule ‘A’ Map ‘A4’ of the Regional Official Plan. Living Areas are to be planned and developed for a variety of housing types, sizes, and tenure.

#### **4.2. Whitby Official Plan**

The south portion of the subject land is designated as Low Density Residential 1, and the north portion is designated as Environmental Protection/Conservation Lands on Schedule 'P' – Taunton North Community Secondary Plan (refer to Attachment #6).

The Low Density Residential 1 designation permits single detached, semi-detached, and duplex dwellings to a maximum of 30 dwelling units per net hectare (4.4.3.4). The exact form and density of development that will be permitted may be determined through the EIS process and may be lower than the maximum density permitted by the Official Plan policies in order to properly address environmental conditions identified (11.10.8.9.1).

The Environmental Protection/Conservation Lands designation is intended to protect and enhance the natural features, functions, and linkages of these lands (11.10.6.1).

An Official Plan Amendment is required to adjust the boundary of the Environmental Protection/Conservation Lands area and to change a portion of the Low Density Residential 1 area to Medium Density Residential to permit the use of townhouses. The south portion of the subject land is proposed to remain Low Density Residential 1 to accommodate 18 single detached dwellings.

The submitted Environmental Impact Study and other environmental reports have been reviewed by the Town, Region and CLOCA, and the proposed density has been determined to be acceptable from an environmental perspective.

The proposed development will contribute to the density and mix of housing supply, while contributing to the efficient use of infrastructure and intensification in a built up area while serving as a transition point.

It is recommended that Council approve the Official Plan Amendment to change the land use designation and adjust the environmental boundary to accommodate the proposed development.

The draft proposed Official Plan Amendment 132 is available at Attachment #7.

#### **4.3. Zoning By-law**

The property at 4400 Garden Street is zoned Development (Residential) (D(R)) under By-law 1784 (refer to Attachment #8). The D(R) Zone is a Holding zone intended for future residential development, subject to a Zoning By-law Amendment Application.

The property at 4440 Garden Street is zoned Agricultural (A) under By-law 1784 (refer to Attachment #8). The Agricultural Zone permits a single detached dwelling and farming uses.

A Zoning By-law Amendment is required to change the zoning to appropriate residential zone categories to permit the proposed development and to implement the Taunton North Secondary Plan policies.

#### **4.4. Whitby Green Standards**

The submitted Sustainability Rationale and Whitby Green Standard Draft Plan Application Checklist was reviewed by Sustainability staff. The Rationale states that the proposed single detached dwellings are committed to Tier 1 Performance category. A further Sustainability Rationale and Site Plan Checklist will be required for the condominium development and must achieve a minimum of Tier 1 of the Whitby Green Standards. The Sustainability Rationale will be included in the Subdivision Agreement and future Site Plan Agreement.

#### **4.5. Conclusion**

The majority of the subject land is designated for Low Density Residential uses and a portion is identified as Environmental Protection / Conservation Lands. Residential areas are intended to support a variety of residential uses.

The proposed development will serve to increase the range of dwelling types available within the community. The proposed development represents an urban form that is efficient and cost effective for servicing, storm water, transportation, and public transit systems.

The proposed building design and articulation of the condominium dwellings will be dealt with through the Site Plan approval process and will be designed to be appropriate within the existing and planned built form context. In addition, the single detached dwellings fronting Robert Attersley Drive East will be reviewed through architectural control for compatibility with the existing neighbourhood.

The proposed development represents an intensification opportunity within the built-up area of the Town of Whitby located within the 'Built Boundary', as defined by the Province. It provides an appropriate range and mix of housing types and densities to meet the needs of current and future residents. Development of the subject land for single detached, townhouse dwellings and back-to-back townhouse dwellings is appropriate as it is situated within the built-up area, along a collector road with access to transit facilities.

The proposed development of single detached dwellings along Robert Attersley Drive East provides transition to the existing low density residential neighbourhood.

All of the commenting departments and external agencies have indicated support for, or no objection to, the proposed development subject to their comments and conditions, as outlined in Section 7.

Based on the detailed review of the applications and consideration of public and agency comments and requirements (refer to Section 6), it is concluded that the proposed development is consistent with the Provincial Policy Statement, is in conformity with the Growth Plan and the Region's Official Plan, and meets the general intent and the overall goals, objectives, and policies of the Town's Official Plan. Therefore, it is recommended that Council approve the proposed Official Plan Amendment, Draft Plan of Subdivision and Zoning By-law Amendment.

**5. Financial Considerations:**

Not applicable.

**6. Communication and Public Engagement:**

A Public Meeting was held on September 12, 2022 in accordance with the Town of Whitby Official Plan and the Planning Act. This meeting provided the public and interested persons and agencies the opportunity to make representation in respect of the Official Plan Amendment and Zoning By-law Amendment Applications. The meeting minutes are included in Attachment #9a. No members of the public spoke at the public meeting.

All individuals who registered as an interested party at the statutory public meeting and any individual who provided written correspondence to the Town have been provided notice of the September 18, 2023 Committee of the Whole Meeting.

Written public correspondence was received from nearby residents. A summary is included in Attachment #9b. The written correspondence raised various concerns including:

- the protection of the Environmental Protection / Conservation Lands;
- pedestrian safety at the intersection of Garden Street and Robert Attersley;
- lack of sidewalks on Garden Street; and,
- installation of speed bumps on Garden Street similar to those on Robert Attersley.

The oral and written submissions by the public have been considered in determining the recommendation for approval of the proposed Official Plan Amendment, Draft Plan of Subdivision and Zoning By-law Amendment Applications. As previously noted, the proposed development conforms to the Official Plan policies of the Region's OP and generally meets the intent of the Town's OP. The following concerns raised above have been considered as follows:

- the plan has been revised to protect the greenspace. The hazard lands, wetlands, associated features, and their development setbacks shall be



designated Environmental Protection/Conservation Lands and be zoned Greenbelt (G) and conveyed to the Town of Whitby as Open Space.

- Garden Street transportation components such as sidewalks are subject to a Garden Street Extension Environmental Assessment.

## **7. Input from Departments/Sources:**

The following agencies have reviewed the applications and have no objection:

- Town of Whitby Financial Services – Development Charges;
- Bell Canada;
- Durham Catholic District School Board ;
- Durham District School Board;
- Enbridge Gas Inc.; and,
- Hydro One Networks Inc.

Refer to Attachment #10 for additional detailed comments.

## **Internal Departments**

### **Community Services – Parks**

Comments provided by Parks staff state that there is no objection to the approval of the applications subject to the Conditions of Draft Approval (refer to Attachment #11). The conditions include the payment of cash-in-lieu of parkland, the conveyance of Block 20 to the Town of Whitby as Open Space and the installation of fencing.

Refer to Attachment #10 for additional detailed comments.

### **Engineering Services**

Comments provided by Engineering Services state that there is no objection to the approval of the applications subject to the Conditions of Draft Approval (refer to Attachment #11)

Refer to Attachment #10 for additional detailed comments.

### **Financial Services**

Comments provided by Financial Services – Tax staff state that there are outstanding taxes owing on both 4400 & 4440 Garden Street.

Refer to Attachment #10 for additional detailed comments.

### **Fire and Emergency Services**

Comments provided by Fire staff include that a firebreak plan is required, and that fire route signs and hydrants shall be shown on the plan.

Refer to Attachment #10 for additional detailed comments.

### **Strategic Initiatives**

Comments provided by Strategic Initiatives staff state that the Whitby Green Standards Subdivision checklist requires revisions. The proponent is encouraged to consider advanced sustainability criteria through the uptake of voluntary Tiers 2-4.

Refer to Attachment #10 for additional detailed comments.

### **External Agencies**

#### **Central Lake Ontario Conservation Authority (CLOCA)**

Comments provided by CLOCA state that there is no objection to the approval of the applications subject to the Conditions of Draft Approval (refer to Attachment #11). CLOCA recommends that all lands containing hazard lands, wetlands, associated features, and their development setbacks be designated Environmental Protection/Conservation Lands and be zoned Greenbelt (G).

Refer to Attachment #10 for additional detailed comments.

#### **Region of Durham**

Comments provided by Regional staff include:

- A Stage 2 Archaeological Assessment is required;
- A revised Noise Feasibility Assessment is required to include the updated traffic volumes;
- Additional pedestrian crossings on the private streets are recommended;
- Sidewalks are required on Garden Street and Robert Attersley Drive; and,
- Two new bus stops are required to be located on Garden Street and Robert Attersley Drive.

Refer to Attachment #10 for additional detailed comments.

### **8. Strategic Priorities:**

The development of a residential subdivision contributes to meeting the priorities of the Community Strategic Plan, specifically Action Item 1.3.4 under Pillar 1: Whitby's Neighbourhoods by providing a variety of housing options.

This report is in a fully accessible format, which addresses the Town's strategic priority of accessibility. The future Site Plan Application(s) will be circulated to the Accessibility Advisory Committee for review and comment to ensure all accessibility requirements are met.

The proposed residential development increases the density on the subject land which provides a better use of existing infrastructure, which implements the Town's strategic priority of sustainability.

**9. Attachments:**

Attachment #1: Location Sketch

Attachment #2: Aerial Context Map

Attachment #3: Proponent's Proposed Subdivision Plan

Attachment #4: Proponent's Proposed Concept Plan

Attachment #5: Active Transportation Plan – Excerpt from Transportation Study

Attachment #6: Excerpt from the Town of Whitby Secondary Plan Schedule 'P'

Attachment #7: Draft Proposed Official Plan Amendment 132

Attachment #8: Excerpt from Zoning By-law 1784

Attachment #9a: Public Meeting Minutes

Attachment #9b: Summary of Written Public Comments

Attachment #10: Agency & Stakeholder Detailed Comments

Attachment #11: Conditions of Draft Plan of Subdivision Approval