

Town of Whitby

Staff Report

whitby.ca/CouncilCalendar



Report Title: Official Plan Amendment, Draft Plan of Subdivision and Zoning By-law Amendment, Nordeagle Development Ltd., vacant lands north of Victoria Street West, between Montecorte Street and Jim Flaherty Street. File # DEV-03-18 (OPA-2018-W/02, SW-2018-01, Z-08-18)

Report to: Committee of the Whole

Date of meeting: October 21, 2024

Report Number: PDP 50-24

Department(s) Responsible:

Planning and Development Department
(Planning Services)

Submitted by:

R. Saunders, Commissioner of Planning
and Development

**Acknowledged by M. Gaskell,
Chief Administrative Officer**

For additional information, contact:

B. Anderson, Principal Planner, ext. 2821

L. Riviere-Doersam, Project Manager,
ext. 2895

1. Recommendation:

1. That Council approve Official Plan Amendment Number #140 to the Whitby Official Plan (OPA-2018-W02), as shown on Attachment #14, and that a By-law to adopt Official Plan Amendment Number #140 be brought forward for consideration by Council;
2. That the Clerk forward a copy of the Planning Report PDP 50-24, two (2) copies of the adopted Amendment, and a copy of the bylaw to adopt Amendment Number #140 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-2018-01), subject to the comments included in Planning Report PDP 50-24 and the conditions of draft plan approval included in Attachment #18;
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 #2585 (File No. Z-08-18), as outlined in Planning Report No. PDP 50-24;
7. That a by-law to amend Zoning By-law #2585 be brought forward for consideration by Council to implement the first Phase of the development;
8. That the By-law(s) to implement subsequent Phases be brought forward for consideration by Council once detailed site plan drawings and a satisfactory Parking rationale have been provided;
9. That the subject site be designated as a Class 4 Noise Area pursuant to Provincial publication NPC-300; and,
10. That notice be provided to adjacent industrial properties advising of Council's designation of the subject site as a Class 4 Noise Area.

2. Highlights:

- Applications for an Official Plan Amendment, Zoning By-law Amendment, and Draft Plan of Subdivision have been submitted by Nordeagle Developments Ltd., for the vacant lands located north of Victoria Street, between Montecorte Street and Jim Flaherty Street (Blocks 1, 2, 3, 4, and 5, Plan 40M-2045).
- If approved, the proposed applications would permit the development of the subject land for a mixed-use development consisting of 7,034 apartment units, 401 hotel suites, 13,327m² of Retail Use space, 65,464m² of Office Use space, and 36,020m² of Conference Use space.
- The Official Plan Amendment application proposes to re-designate the subject land from Prestige Industrial – Business Park to Mixed Use, in order to permit the proposed development.
- The Zoning By-law Amendment application proposes to change the zoning from M1A-LS-N, M1A-LS-N1 and M1A-LS-2 (Lynde Shores Industrial) to appropriate zone categories with site specific provisions to accommodate the proposed mixed-use development.
- The Draft Plan of Subdivision application proposes to create 3 development Blocks, a Park Block, a new Public Street, and 3 Blocks for road widenings.
- The proposed development is consistent with the recently implemented Provincial Planning Statement, as well as the preceding Provincial Policy

Statement and Provincial Growth Plan. The proposed development is in conformity with the Region's new Official Plan (known as Envision Durham). The proposed development would implement Provincial and Regional policy direction for increased heights and density within a delineated Protected Major Transit Station Area (PMTSA) and would significantly contribute to achieving the Town's provincial housing target pledge and mandated Provincial/Regional density targets.

3. Background:

3.1 Site and Area Description

The subject land is located on the north side of Victoria Street West, between Montecorte Street and Jim Flaherty Street (refer to Attachment #1). The site has a total area of 16.2 hectares (40.1 acres) and includes lands on both the north and south side of Nordeagle Avenue. The subject land is currently vacant.

The surrounding land uses include the following (refer to Attachment #2):

- A Sobeys distribution warehouse to the north;
- The Iroquois Park Sports Centre and the Abilities Centre to the east;
- Victoria Fields, a Commercial Plaza (known as Whitby Shores Shopping Centre), and existing low and medium density residential development to the south;
- An industrial building, gas bar, and vacant lands located to the west, including lands zoned for a Hotel use.

3.2 Proposed Development and Required Applications

Applications for an Official Plan Amendment, Draft Plan of Subdivision, and Zoning By-law Amendment have been submitted by Nordeagle Developments Ltd. If approved, the applications would facilitate the development of the subject land as a mixed-use community consisting of:

- 7,034 apartment units in mid-rise and high-rise buildings. Most buildings consist of point towers on podiums. Heights range from 2 to 8 storeys for the podium component of buildings and 18 to 41 storeys for the point tower component of buildings. There are also two 4 storey stand alone buildings;
- 401 hotel suites in a 16 storey hotel building;
- 65,464 m² (704,468 ft²) Office Use space in 4-6 storey office buildings and as part of the podium component of mixed-use buildings;

- 13,327 m² (143,450 ft²) of Retail Use space, distributed across the subject land as part of the office and convention buildings and within the podium component of mixed use buildings;
- 36,020 m² (387,716 ft²) Convention Use space in a 4 storey building;
- A 1.48 hectare (3.66 acre) Park Block;
- Privately Owned Public Spaces (POPS) in the form of connected open space areas totaling 2.04 hectares (5.03 acres) and a 0.34 hectare (0.84 acre) Urban Square;
- An “L” shaped Local Road providing a connection between Nordeagle Avenue and Jim Flaherty Street;
- A series of private internal roadways oriented in a grid pattern; and
- Three underground levels which provide elevator access, storage, mechanical rooms and 10,194 parking spaces.

The proposed development concept (refer to Attachment #3) would provide the greatest building height and density focused at the northwest corner of Jim Flaherty Street and Victoria Street West, on either side of a proposed Urban Square, with heights generally decreasing to the northwest. Connectivity is provided throughout the site through a grid pattern of public and private roadways and a connected system of private amenity and public park space.

At grade Retail Space is provided within building podiums fronting public roadways, including Victoria Street West, Jim Flaherty Street, and Nordeagle Avenue. Non-residential uses (office, hotel, conference centre) are provided on the north side of Nordeagle Avenue, creating a separation buffer between the Sobeys distribution warehouse and the residential with associated retail/commercial/office proposed south of Nordeagle Avenue.

An Official Plan Amendment Application has been submitted to redesignate the lands from ‘Prestige Industrial’ on Schedule A and ‘Business Park’ in the Lynde Shores Secondary Plan to ‘Mixed Use’ to allow the proposed mixed-use development on the subject land. Additional site-specific policies would also be required to enable the various proposed uses, building heights and the amount of non-residential floor space for retail, commercial, office, convention centre and hotel uses.

A Draft Plan of Subdivision Application has been submitted which proposes the creation of 3 development Blocks, a Park Block, a new Public Street, and 3 Blocks for road widenings (refer to Attachment #4 for proposed Draft Plan of Subdivision).

A Zoning By-law Amendment has been submitted to change the zoning from M1A-LS-N, M1A-LS-N1 and M1A-LS-2 (Lynde Shores Industrial) to appropriate zone categories to accommodate the proposed mixed-use development.

Given the scale of the proposal, development will take place over time through a series of phases, generally moving from east to west and south to north (refer to Attachment #5). Future Site Plan Applications and Draft Plan of Condominium Applications will be required. Improvements to the active transportation network will also be required (refer to Attachment #6).

3.3 Previous Applications and Previous Approvals

In 2007, applications were submitted to amend the Regional Official Plan, as well as to amend the Whitby Official Plan and Zoning By-law to permit a proposed mixed-use development. The applications were deemed incomplete as they were not accompanied by the required studies. In addition, the applications to amend the Regional Official Plan and Whitby Official Plan were considered employment land conversions which would need to be evaluated in the context of the Region's Growth Plan conformity exercise (then known as "Growing Durham").

The owner appealed the Region's and Town's lack of decision on the site-specific applications and later appealed the Region's Regional Official Plan Amendment (ROPA) 128 and the Town's Official Plan Amendment (OPA 90) (i.e. the Region and Town's Growth Plan conformity amendments). Nordeagle's appeals to ROPA 128 and OPA 90 were ultimately settled and the appeals on the previous site-specific applications were later withdrawn.

The settlement to ROPA 128 and OPA 90 resulted in policies being added to the Region and Town Official Plans which permit higher density, mixed use development on the subject land.

3.4 Documents Submitted in Support

The following reports and studies were submitted in support of the applications:

- Planning & Urban Design Rationale, prepared by Bousfields Inc., dated February 2018 supported by addendum letters dated November 8, 2023 and June 25, 2024. The Planning Rationale provides the opinion that the proposed development implements Provincial, Regional, and Town Policies and represents good planning;
- Master Site Plan, Underground Parking, and Site Statistics detailing the proposed development concept, including the location of buildings, roads, and open space, prepared by BDP Quadrangle Architects Limited. The latest submission of these Plans are dated June 6, 2024 (refer to Attachment #3 for the Master Site Plan);
- A Draft Plan of Subdivision, prepared by Bousfields Inc., the latest submission dated June 20, 2024, illustrating the location and dimensions of

the Park Block, Development Blocks, Public Road, and Road Widening Blocks (refer to Attachment #4);

- Landscape Plans and details, prepared by Studio TLA, latest submission dated May 30, 2024;
- Shadow Study which illustrates the shadow impact of the proposed development prepared by BDP Quadrangle Architects Limited latest submission dated August 2024. The Shadow Study demonstrates that shadows will generally fall to the north and will not impact existing development to the south of the subject land;
- A Plan of Survey prepared by J.D. Barnes Limited dated October 6, 2016;
- An Odour Review Report prepared by RWDI, dated November 20, 2018 which concludes that none of the existing uses in the surrounding area entail significant sources of air contaminants that could lead to odour or other air quality impacts at the proposed development site;
- A Land Use Compatibility Report – Air Quality, prepared by RWDI, dated September 18, 2023 which addressed the Ministry of Environment, Conservation and Parks (MECP's) Land Use Compatibility Guidelines. The report states that the proposed development is compatible with surrounding land uses subject to mitigation measures being implemented for the proposed hotel;
- A Noise Feasibility Study prepared by HGC Engineering, dated February 16, 2018 and updated January 13, 2020, September 21, 2023, May 31, 2024, June 21, 2024, and August 16, 2024 in response to changes to the site plan and comments from the Region of Durham peer review consultant. The Noise Feasibility Study recommends the use of mitigation measures, warning clauses and a Class 4 noise classification in order to meet the Provincial Noise Guideline NPC-300;
- A letter providing information on the potential presence of ammonia used in the cooling system for the adjacent Sobeys property prepared by RWDI, dated July 4, 2024. The letter outlines the responsibility of companies that store large amounts of ammonia to comply with regulatory requirements, including emergency management planning;
- A Functional Servicing Report (FSR), prepared by Valdor Engineering Inc., latest submission dated June 2024. The FSR finds that the site can be serviced by full municipal services (sanitary services, water services, and stormwater management) in accordance with the standards of the Town of

Whitby, Region of Durham, and Central Lake Ontario Conservation Authority;

- A Transportation Study, prepared by R.J. Burnside & Associates, the most recent submission dated November 2023 and supported by an addendum dated June 20, 2024. The Transportation Study projects site generated traffic and assesses the impact and appropriate mitigation measures to manage impacts on the surrounding road network. The report also provides justification for the proposed parking rates;
- A Tree Inventory and Preservation Plan / Arborist Report, prepared by Kuntz Forestry Consulting Inc., dated September 13, 2023, which inventories existing trees on the subject land, all of which are proposed for removal;
- A Phasing Diagram, prepared by BDP Quadrangle, dated July 27, 2024, (refer to Attachment #5);
- A Phase One Environmental Site Assessment (ESA) prepared by WSP, dated March 12, 2018 and a Phase One ESA prepared by McClymont & Rak Engineers Inc., dated September 2023. The Phase One ESA reports assess the site for potentially contaminating activities in order to determine areas of potential environmental concern that would need to be further assessed through a Phase Two ESA report;
- Two Phase Two ESA Reports, prepared by McClymont & Rak Engineers dated October 2019, were initially submitted. Subsequently, a Phase Two ESA Northeast Quadrant of Victoria Street West and Montecorte Street and a Phase Two ESA Northeast Quadrant of Nordeagle Avenue and Montecorte Street, both prepared by McClymont & Rak Engineers Inc., dated November 2023 were submitted. The reports conclude that, based on soil and groundwater testing in accordance with Provincial standards, the site conditions are appropriate for residential development;
- A Stage 1 Archaeological Assessment, prepared by AECOM dated March 2018 which concludes that due to extensive disturbance on the site, and the low-lying permanently wet areas, it no longer contains archaeological potential. The Archaeological Assessment was submitted to the Ministry of Tourism, Culture and Sport who provided their clearance letter in April 2019.
- A Bird Strike Mitigation Memo, prepared by SLR Consulting Canada, dated October 3, 2023, which provides a series of design measures intended to reduce bird collisions with the proposed development;

- A Retail Market Study, prepared by Tate Economic Research Inc., most recent submission dated October 2023, which assesses the suitability of the subject land and market demand for the proposed quantum of retail / service commercial space being proposed. The report concludes the proposed retail space will not have a negative impact on the Downtown Whitby Central Area;
- An Environmental Impact Statement (EIS), prepared by RJ Burnside, dated September 22, 2017. The EIS reviews the Applicable Provincial, Regional, and Town policies, characterizes the features and vegetative communities on the site, and assesses the impact of the proposed development on threatened and endangered species. The report finds the existing pond areas on the site are of low ecological value and concludes that provided the recommended mitigations outlined in the report are implemented, the proposed development is in alignment with applicable natural heritage policies and legislation;
- High-Density Residential Market and Economic Impact Assessment, prepared by N. Barry Lyon Consultants Limited, dated March 2018. The report measures the economic impact of the proposed development and concludes that it would have a beneficial impact on the Town, Region and Province;
- A Preliminary Geotechnical Report prepared by WSP, dated June 1, 2017, and an Initial Geotechnical Report, prepared by McClymont & Rak Engineers Inc., dated August 2023. These reports broadly examine the subsoil conditions of the site and provides recommendations for the design and construction of the proposed development;
- An Initial Hydrogeological Assessment, prepared by McClymont & Rak Engineers Inc., dated August 2023 which examines the groundwater conditions of the site and provides preliminary design and construction recommendations for the proposed development;
- Whitby Green Standard Checklist, dated October 25, 2023, which identifies how the proposed development implements the Whitby Green Standard;
- Urban Design Plan, prepared by Bousfields Inc, most recent submission dated August 2024, which reviews the applicable policy framework and surrounding built context, establishes design principles, evaluates development concept options, and outlines design strategies to guide the future detailed design of the site.

4. Discussion:

4.1 Planning Act

The Planning Act is provincial legislation that sets out the basis for land use planning in Ontario. Municipal planning processes and decisions must adhere to the requirements of the Planning Act.

The Planning Act enables upper-tier municipalities to delineate Protected Major Transit Station Areas (PMTSAs) and further indicates that Regional Official Plans must include relevant PMTSA policies. PMTSA policies, at a minimum, must identify the minimum number of residents and jobs per hectare, the minimum residential densities with respect to buildings and structures on lands in the area, and specify the permitted uses.

The Planning Act requires lower-tier Official Plans to be amended within one (1) year of the Regional Official Plan coming into effect regarding PTMSAs.

Recent amendments to the Planning Act (16(22) and 34 (1.1)) prohibit the Town from establishing minimum parking standards / requirements in the Town's Official Plan and Zoning By-law for lands within the Whitby PMTSA.

4.2 Provincial Policy Statement and the Provincial Growth Plan for the Greater Golden Horseshoe

The Provincial Policy Statement sets the policy foundation for land use planning across Ontario. The Provincial Policy Statement contains three major policy themes of Building Strong Healthy Communities, Wise Use and Management of Resources, and Protecting Public Health and Safety.

The Province's Growth Plan for the Greater Golden Horseshoe (Growth Plan) establishes long-term direction for where and how communities should grow. The Growth Plan emphasizes an intensification first approach to city-building and includes polices focused on optimizing the use of land and infrastructure.

The applications were reviewed and found to implement the policy directions of the Provincial Policy Statement and the Provincial Growth Plan. On August 20, 2024, the Province released a new "Provincial Planning Statement 2024", which replaces the Provincial Policy Statement and Growth Plan.

4.4 Provincial Planning Statement

The Provincial Planning Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. It replaces the previous Provincial Policy Statement and Growth Plan and came into effect on October 20, 2024.

The new PPS directs where and how population and employment growth should occur in the Province of Ontario. Broadly speaking, growth is directed to settlement areas, and within settlement areas growth and development is to be focused within Strategic Growth Areas (SGAs) which includes Major Transit Station Areas (MTSAs), such as the Whitby Protected Major Transit Station Area.

Policies for SGAs (which include MTSAAs) state that they are to be planned for significant population and employment growth. Further, SGAs are to be planned as focal points for education, commercial, recreational and cultural uses, are to accommodate and support the transit network, and are to support affordable, accessible, and equitable housing. Planning authorities are to permit development and intensification in SGAs to support the achievement of complete communities and compact built form.

The PPS includes specific policy directions for MTSAAs. This includes establishing a minimum density target of 150 people and jobs per hectare for the Whitby MTSA. Municipalities are encouraged to promote intensification and development within MTSAAs by planning for land uses and built form that supports achievement of the minimum density target and by supporting redevelopment of surface parking areas.

The new PPS provides updated policies related to Employment Areas and Employment Uses. Planning authorities are required to plan, protect, and preserve employment areas for current and future uses. This is to be achieved by prohibiting residential uses, commercial uses, public service facilities and other institutional uses, prohibiting retail and office uses that are not associated with the primary employment use, prohibiting other sensitive land uses, and including an appropriate transition to adjacent non-employment areas to ensure land use compatibility and economic viability.

To achieve Land Use Compatibility, the PPS requires major facilities and sensitive land uses to be planned and developed to avoid, or where avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise, and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures.

4.4 Region of Durham Official Plan - 'Envision Durham'

Under the Region's previous Regional Official Plan (ROP), the subject lands were designated as Employment Areas and subject to Policy 8C.3, which enabled the development of an integrated, higher density, mixed use development including residential, office, commercial and business park uses on the lands bounded by Victoria Street, Gordon Street (now known as Jim Flaherty Street), Montecorte Street, and Nordeagle Avenue. Policy 8C.3.1 further states that the extent and scale of development shall be determined in the area municipal Official Plan and shall require the completion of studies to the satisfaction of the Region and Town which address a number of issues.

On September 3, 2024 the Province of Ontario approved, subject to modifications, the Region of Durham's new ROP, known as Envision Durham. The subject land is located within the Whitby Protected Major Transit Station Area (PMTSA), as shown on Map 1 (refer to Attachment #9) which is also a Strategic Growth Area (SGA).

PMTSAs are to be planned as communities centered around higher order transit services. Permitted uses include medium and high density residential, mixed-use development, compatible employment generating uses including but not limited to office and major office, cultural and entertainment uses, commercial and retail uses, institutional and educational uses including post-secondary facilities, recreational and community amenities such as parks, urban squares and trail systems. The PMTSA is intended to be planned for a minimum transit supportive density of 150 people and jobs per hectare. Previous Policy 8C.3 has been transitioned into the new ROP through the inclusion of Policy 10.3.8.

The proposed development, including the range of uses and proposed densities, conforms with the new ROP policies and permissions for PMTSAs.

4.5 Town of Whitby Official Plan, Lynde Shores Secondary Plan, and PMTSA OPA

The subject land is designated as Prestige Industrial, with a portion of the site within the Community Central Area Boundary, as shown on Schedule A of the Whitby Official Plan (refer to Attachment #10). The subject land is designated as Business Park within the Lynde Shores Secondary Plan, as shown on Schedule G (refer to Attachment #11). The Business Park designation permits research, development and information processing establishments, corporate head offices or major regional branch offices, training facilities, communication production uses, pharmaceutical, and light manufacturing / distribution of high value and high technology products.

Policy 11.2.6.7 allows for lands within the Community Central Area to be developed for additional uses, including business, medical, and professional offices, financial institutions, restaurants, fraternal organizations, and limited service commercial uses serving the Business Park. Building heights fronting Victoria Street West and Jim Flaherty Street are to be between 3 and 8 storeys. An exception within policy 11.2.6.7 permits an office building located at the northeast corner of Victoria Street West and Montecorte Street with a height between 3 and 20 storeys.

Through an OMB settlement of Nordeagle's appeal on OPA 90 (the Town of Whitby's Growth Plan conformity amendment), a site-specific exception policy 4.6.5.9 (renumbered as Policy 4.7.5.2 by OPA 105) was added to the industrial policies which reflects the same intent as the Regional policy 8C.3.1 (now 10.3.8).

Policy 4.7.5.2 reads as follows:

"Notwithstanding the policies of this Plan to the contrary, and in accordance with Policy 8C.3.1 of the Durham Regional Official Plan, an integrated, higher density, mixed-use development including residential, office, commercial and business park uses, is permitted within the area bounded by Victoria Street, Gordon Street, Montecorte Street, and Nordeagle Avenue. The extent and scale of development shall be determined through the completion of studies to the satisfaction of the

Region and Municipality to support an amendment to the Lynde Shores Secondary Plan, which shall address the following:

- a) the determination of an appropriate range of permitted uses within the mixed-use development area that are compatible with uses on adjacent lands that are existing and permitted in accordance with the Lynde Shores Secondary Plan;
- b) the compatibility of land uses, which shall include the provision of a transition area between any residential or other sensitive uses and Business Park uses adjacent to the mixed-use development area. The transition area may include the parcel immediately north of Nordeagle Avenue, identified by Assessment No. 18-09-020-002-70445;
- c) an analysis of the appropriate height, density, massing, and built form for the mixed-use development area, and the delineation of the boundaries of the transition area;
- d) an urban design plan;
- e) an analysis of the impacts on the surrounding community, including noise, environment, air quality, and market;
- f) a phasing plan to address the availability of servicing; and,
- g) any other relevant matters and policies of this Plan.

Victoria Street is identified as an Intensification Corridor on Schedule B – Intensification of the Town of Whitby Official Plan. Lands fronting Intensification Corridors are intended to achieve a long-term overall density target of at least 60 residential units per gross hectare and an overall long-term floor space index target of 2.5. Building heights of 2-8 storeys are permitted within Intensification Corridors and heights of up to 12 storeys may be considered for appropriate sites.

An amendment to the Lynde Shores Secondary Plan is required in order to permit the proposed development. The Draft Proposed Amendment would re-designate the subject land to a Mixed-Use designation with site specific policies to permit the proposed uses, building heights, and densities. Lands north of Nordeagle Avenue include specific policies to limit their use to Hotel, Office, and Convention Centre uses, along with ancillary retail uses, while prohibiting residential uses.

The subject applications are proceeding in advance of the Town's recently commenced Official Plan Review. Through the Town's Official Plan Review, there will be consideration of appropriate increases in height and density within the Whitby PMTSA as a whole, to be consistent with, and in conformity to the new PPS and the new Envision Durham ROP. The approval of the subject applications will both inform and complement the Town's Official Plan Review process.

4.6 Zoning By-law

The subject land is zoned Prestige Industrial (Business Park) Node (M1A-LS-N), Prestige Industrial (Business Park) Node Exception 1 (M1A-LS-N-1) and Prestige Industrial (Business Park) Exception 2 (M1A-LS-2), Zoning By-law 2585 (refer to Attachment #12).

The current zoning permits a variety of business park uses such as office, light manufacturing, research and development, commercial or technical school, and ancillary warehousing. Residential uses are currently prohibited.

An amendment to the Zoning By-law is required to permit the proposed development. Appropriate Zone Categories will be established to permit the mixed-use components of the development. Site specific provisions will be required to permit the proposed building height, density, setbacks, proposed parking, and other elements that are determined to require relief from the parent Zoning By-law provisions.

Town staff continue to work with the applicant on an acceptable approach to managing parking for the proposed development. As noted in Section 4.1 of this report, changes to the Planning Act would prevent the establishment of minimum parking requirements in the implementing Zoning By-law for lands located within the PMTSA.

4.7 School Site

The Durham District School Board (DDSB) has advised that the proposed development, and other nearby developments in the Port Whitby area, trigger the requirement for an elementary school to accommodate projected school enrolment. The need for a new school is anticipated sometime after the first phase of development (i.e. the first two residential buildings) are completed.

Discussions took place with the applicant, DDSB, and Town staff to consider different options to address the need for a school site. The potential for an urban format school located in the base building of a residential tower and/or office building was explored, as was identifying a suitable location for a traditional stand-alone school site. The DDSB typically requires a roughly 3-hectare (7.5 acre) parcel to accommodate a traditional format elementary school building with associated parking, expansion areas for portables and future building additions, and outdoor play space.

A site large enough to accommodate a traditional school building was identified on other lands owned by the applicant, at the northeast corner of Nordeagle Avenue and Jeffery Street. Through the Provincial approval of Envision Durham, these lands, along with other surrounding lands, have been re-designated from Employment Areas to Community Areas. The re-designation of these lands will allow future amendments to the Town's Official Plan and Zoning By-law to permit the development of a school as part of the broader planning for this area as a residential/mixed-use community. The exact size and configuration of the school block is still being evaluated.

A policy has been included in the implementing Official Plan Amendment to reflect the need for a school site. The policy requires an adequately sized school site to be identified and protected for, to the satisfaction of the DDSB, before Phase 2 or any subsequent phases that include residential uses can proceed. Similarly, a Holding Provision will be included in the implementing Zoning By-law for Phase 2 and any subsequent phases that include residential uses. Attachment #13 provides an illustration of the lands that will be held until such time as an adequately sized school site is identified/protected for.

Should further due diligence determine the site at the northeast corner of Nordeagle Avenue and Jeffery Street is unsuitable for a school site, the applicant will be required to determine a different site that is acceptable to the DDSB and Town.

4.8 Composite Transportation Management Plan

The Engineering Services Division has provided a Composite Transportation Component Plan to identify the anticipated locations of traffic infrastructure, including sidewalks, traffic calming, potential traffic signals, and on-road cycling facilities (refer to Attachment #6). These elements will be further refined and implemented through the future detailed engineering design process.

4.9 Land Use Compatibility (Noise, Odour, Land Use Separation)

In order to address ROP and Town Official Plan policies, studies related to land use compatibility were undertaken by the applicant. This includes an Odour Review Report prepared by RWDI (November 20, 2018). The Region of Durham had this report peer reviewed, and subsequently a Land Use Compatibility Report – Air Quality, also prepared by RWDI (September 18, 2023), was submitted and subject to a peer review.

The 2023 Land Use Compatibility Report concluded that there were no land use compatibility concerns between the existing industrial buildings and the proposed residential / mixed use development. Air quality concerns related to the proximity of the proposed development to the CN/Metrolinx railway corridor and Highway 401 were identified, however mitigation measures were recommended for the proposed hotel to reduce the potential impacts. The Region's peer reviewer concurred with the recommendations of the RWDI Land Use Compatibility Report and confirm the report was complete, accurate, and complies with Federal, Provincial, Regional and Town policies and regulations.

A Noise Feasibility Study prepared by HGC Engineering, dated February 16, 2018 and updated January 13, 2020, September 21, 2023, May 31, 2024, June 21, 2024 and August 16, 2024 were submitted in support of the applications. A peer review of the noise studies was conducted by the Region of Durham to ensure that the Provincial Noise Guideline, NPC-300, was met. The Noise Feasibility Report addressed both transportation noise sources such as the railway corridors, Highway 401 and Victoria Street as well as stationary noise sources such as the Sobey's distribution warehouse.

When undertaking a Noise Assessment, the acoustical engineer must determine the “Class” of the surrounding noise environment as defined by NPC-300. Class 1, for example, refers to an urban area where the background sound level is dominated by the activities of people and road traffic, whereas Class 3 refers to rural areas where the surrounding noise environment consists of natural sounds with little or no road traffic. NPC-300 outlines different maximum sound level limits for sensitive land uses based on the Class of the surrounding area. The sound level limits are based on the principal that sound will be less noticeable and disruptive in an urban environment which has a higher “background” noise level than in a quieter rural environment.

The concept of Class 4 Noise Areas was introduced by the Ministry of Environment in 2013. It is intended to allow for residential infill / redevelopment in proximity to lawfully established stationary noise sources, such as industry, while still establishing an acceptable sound level limit. Class 4 Noise Areas are areas dominated by an “urban hum”, have higher sound level limits, and allow for additional mitigation measures such as closed windows and provision of air conditioning with associated warning clauses to advise potential purchasers of these conditions. Class 4 Areas must have formal designation by Council and Provincial Guideline NPC 300 recommends that surrounding industrial uses be informed of the designation.

The Region’s peer review consultant concurred with the recommendations of the Noise Feasibility Report which included mitigation measures for the proposed development, the use of warning clauses, and classifying the site as a Class 4 Noise Area. Staff agree that the subject land meets the intent of the Class 4 Noise Area as set out in NPC-300 and this report includes the necessary recommendations for Council to designate the site and notify adjacent industries.

4.10 Phasing

The proposed development will be constructed in phases, generally moving from east to west (refer to Attachment #5).

Through ongoing discussions with the applicant, several revisions to the proposed phasing plan will be made to address Town comments. This includes advancing the delivery of the Park Block to base park conditions earlier in the development process (revise to Phase 6, currently shown as Phase 15).

Planning staff also requested that the construction of the Urban Square at the northwest corner of Jim Flaherty Street and Victoria Street West be completed as part of the first Phase of development (currently shown as part of Phase 3). The applicant advised that delivery of the full Urban Square would require that the underground parking beneath it would also need to be constructed, adding significant cost to the first Phase of development. Further, the Urban Square lands would be needed for construction staging of future phases of development. Accordingly, staff have agreed that interim enhancements of the Urban Square lands would be sufficient to clean up and address the intersection on a temporary basis, until Phase 3 of the development is underway.

The above noted adjustments to the Phasing of development are reflected as proposed Conditions of Draft Plan Approval in Attachment #18.

4.11 Conclusion

The proposed development of the subject land has a long history. The conversion of the subject land from Employment Areas through a site-specific policy exception to permit residential uses was established through previous OMB settlements and is reflected in the Regional and Town of Whitby Official Plans.

The proposed development prioritizes intensification, transit-supportive development, and higher densities within the Whitby PMTSA and takes advantage of existing infrastructure and public services facilities. The intensity of the proposed development will offset land intensive, lower density uses in the PMTSA such as the Abilities Centre, Iroquois Sports Centre, and existing low density-built areas, significantly contributing to the achievement of the minimum required density target of 150 residents and jobs combined per hectare which is measured across the PMTSA. Further, the proposed development demonstrates land use compatibility and provides for transition between existing non-residential uses and proposed sensitive/residential uses. The proposed development is consistent with the policies of the Provincial Planning Statement.

The proposed development conforms to and is consistent with the new Regional Official Plan (Envision Durham). The proposed development will establish a dense, mixed-use, urban community within walking distance to the GO Station and other transit options and will significantly contribute to achieving the long term PMTSA minimum density target of 150 persons and jobs per hectare. Further, the proposed development has implemented the requirements of site-specific Policy 10.3.8 of the ROP.

The proposed development implements the site-specific Whitby Official Plan, policy exception 4.7.5.2 which enables the consideration of a higher density, mixed-use development on the subject land. The proposed development would add a significant supply of new housing stock and expand the range of housing options available in the Town and Region to meet the projected needs of current and future residents. Additionally, the proposed development will contribute to achieving the Province's allocation and the Town's pledge of 18,000 new units by 2031.

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.

It is recommended that Council approve the Draft Proposed Official Plan Amendment #140 (refer to Attachment #14), as well as approve the Draft Plan of Subdivision and Zoning By-law Amendment Applications.

5. Financial Considerations:

With each new subdivision development approved by the Municipality, the Town of Whitby assumes assets requiring regular operational maintenance and eventually capital replacement. The following assets will be generated as a result of the subdivision and included in the Town's Asset Management Plan. The Capital replacement and annual operating costs would be included in future budgets. Further details regarding infrastructure costs would also be identified in the Financial Services Asset Management annual report.

Asset	Quantity
Roads	0.752 lane-km
Sidewalks/Multi-use paths	0.752 km
Storm Sewers	0.376 km
Local Park	1.484 km

6. Communication and Public Engagement:

A Public Meeting was held on June 11, 2018, in accordance with the Planning Act. This meeting provided the public and interested persons and agencies the opportunity to make representation in respect of the proposed development and Planning Act Applications. The meeting minutes are included in Attachment #15. Several members of the public spoke at the public meeting.

Concerns raised at the Public Meeting include the following:

- increased traffic and the inability of the existing and future road network to accommodate increased traffic generated by the development;
- timing of various transportation related upgrades to accommodate traffic;
- increased noise levels;
- the number of new residents/increased density;
- lack of health care / hospital, fire and emergency services in the area, emergency situation concerns (i.e. rail car derailment);
- impacts to wildlife;
- concerns related to parking / lack of parking; and
- Impact to property values.

Written correspondence was also received, which reiterated the concerns expressed at the Public Meeting, while also identifying the following additional concerns:

- Appropriateness / compatibility of high rise office / residential buildings with surrounding community, loss of privacy;
- School capacity / lack of new school;
- Air quality / increased temperatures;
- Development potential of additional lands owned by the applicant and the ultimate density / population; and
- Transit (GO Train) capacity.

All individuals who registered as an Interested Party at the statutory public meeting and any individual that provided written correspondence to the Town requesting further notice have been provided with notice of the October 21, 2024, Committee of the Whole Meeting.

The oral and written submissions by the public have been considered in determining the recommendation for approval of the proposed Official Plan Amendment, Zoning By-law Amendment, and Draft Plan of Subdivision applications. The following concerns raised above have been considered as follows:

- The concept of a higher density, mixed-use development on the subject land has been contemplated for many years and is enabled by site specific exception policies in the Region and Town Official Plans;
- The subject land is located within the Whitby Protected Major Transit Station Area. Provincial and Regional policies for MTSA's direct they are to be focal points for increased heights and densities and designed to be transit oriented and less car dependent. The proposed development embodies these directives by creating a compact, high-density development within the MTSA boundary, clustering heights and densities in proximity to existing bus transit stops along Victoria Street and providing for a grid pattern of public streets and private laneways which enable a high degree of connectivity and pedestrian permeability;
- Reduced Parking in PMTSA's rates is consistent with Provincial Legislation and Policy;
- Increased use of transit and active transportation modes such as walking and cycling, along with modification to traffic signal timings, is expected to lessen the impacts to area traffic conditions. The proximity of the Whitby

GO Station and the multi-use path network supports increased active modes transportation/pedestrian use in the area;

- The proposed development is separated from existing residential development to the south by Victoria Street West, a Type A Arterial with a 40m right-of-way. Further buffering is provided through intervening land uses such as the Whitby Shores Shopping Centre and Regatta Crescent and private roads/laneways serving as window roads. Further, the submitted Shadow Study indicates there is no shadow impact on existing residential uses;
- Impact on Natural Heritage Features / System were evaluated through an Environmental Impact Statement (EIS). The existing ponds located on the site are the result of previous land clearing and roadwork that was undertaken when the lands were initially graded / prepared for an industrial plan of subdivision. The ponds were determined to not have significant ecological value. The EIS provides mitigation measures to relocate wildlife;
- The applications were circulated to Whitby Fire and Emergency Services for review and comment. The proposal is required to accommodate fire routes and hydrants. These details will be further evaluated through subsequent Site Plan Applications;
- The Central Lake Ontario Conservation Authority have reviewed the supporting documents and have provided comments and conditions in support of the proposal advancing;
- A noise study was submitted in support of the application and peer reviewed by a professional noise consultant. The noise study has been deemed acceptable; and,
- The need for a school has been acknowledged and various options to accommodate a school have been explored. The use of Official Plan policy and a Holding Provision in the implementing By-law will require an adequate school site is identified and protected for before Phase 2 or any other subsequent phase of development can proceed.

7. Input from Departments/Sources:

The following agencies have reviewed the applications have no objection:

- Town Finance;
- Canada Post;
- Durham Catholic District School Board;
- Durham Regional Police Services;
- Enbridge;
- Elexicon;
- Hydro One;

- Ministry of Transportation Ontario;
- Rogers Communication; and
- Bell.

Internal Departments

Community Services – Parks Planning and Development Division

Parks staff have provided supportive comments on the applications, subject to Conditions of Draft Approval. Refer to Attachment #17 for detailed comments and Attachment #18 for Conditions of Draft Plan Approval.

Engineering Services

Engineering Services have provided comments indicating support for approval of the applications, subject to their comments being addressed and their Conditions of Draft Plan Approval.

Engineering Services require minor revisions to the Draft Plan as well as the submission of satisfactory Traffic Impact Study (TIS) to address parking and other items.

Informational comments, which can be addressed through the Subdivision Agreement process were also provided.

Refer to Attachment #17 for detailed comments and Attachment #18 for Conditions of Draft Plan Approval.

Strategic Initiatives

Strategic Initiatives staff have provided comments indicating support for the development from an Economic Development perspective.

Strategic Initiatives staff also identify a number of updates that are required to the Whitby Green Standard Check List and the submission of a Sustainability Report to address their comments. Further, comments are provided on the opportunity for public art to be incorporated as a component of the development. Refer to Attachment #17 for detailed comments.

White Fire and Emergency Services (WFES)

WFES provided comments requesting additional information related to fire hydrant spacing, private laneways/fire routes, and fire breaks. WFES advise that further review will be conducted through future Site Plan Application(s). Refer to Attachment #17 for detailed comments.

External Agencies

Central Lake Ontario Conservation Authority (CLOCA)

Comments provided by CLOCA indicate they are supportive of the approval of the applications, subject to Conditions of Draft Plan Approval. CLOCA advises that a permit from their office will be required prior to any site alteration / development

within 30 metres of the wetlands identified in the EIS. Refer to Attachment #17 for detailed comments and Attachment #18 for Conditions of Draft Plan Approval.

CN Rail

CN Rail staff provided comments with respect to the submitted noise study and requirement for upgraded building materials for the hotel building. They also provided a related warning clause. Refer to Attachment #17 for detailed comments.

Durham District School Board

The Durham District School Board (DDSB) provided comments discussing the need for a school site to serve the proposed development. DDSB comments go on to state they are supportive of the proposed development proceeding, subject to their request that Official Plan policies require a Holding symbol in the implementing zoning by-law related to the need for a school site. DDSB further clarifies that their request would not apply to the first phase of development (the first two towers).

Refer to Attachment #17 for detailed comments and Attachment #18 for Conditions of Draft Plan Approval.

Metrolinx

Metrolinx staff provided comments indicating that an update to the Noise Study will be required to incorporate more up to date rail traffic and to include a warning clause related to proximity to the rail right of way. Metrolinx also requires the inclusion of an environmental easement for operational emissions for all uses within 300 metres of the rail right of way.

Metrolinx advises that its comments/conditions are to be addressed prior to future Site Plan Approval. Refer to Attachment #17 for detailed comments.

Region of Durham

The Region of Durham provided comments indicating that the proposed development appears to conform with the new Regional Official Plan. Accordingly, The Region has exempted the Area Municipal Official Plan component of the application from Regional approval.

Refer to Attachment #17 for detailed comments and Attachment #18 for Conditions of Draft Plan Approval.

8. Strategic Priorities:

The development review process has provided an opportunity for public and agency input. The realization of a higher density mixed-use development on the

subject land will contribute to meeting the priorities of the Community Strategic Plan, specifically:

- Action Item 1.3.4 under Pillar 1: Whitby's Neighbourhoods by contributing to the diversity of the Town's housing options;
- Action Item 3.1.2 Under Pillar 3: Whitby's Economy by providing for office and retail space which will expand Whitby's commercial tax base;
- Action Item 3.2.1 Under Pillar 3: Whitby's Economy the proposed development will provide for hotel and convention centre uses;

9. Attachments:

Attachment #1: Location Sketch

Attachment #2: Aerial Context Map

Attachment #3: Proponent's Master Site Plan Concept

Attachment #4: Proponent's Draft Plan of Subdivision

Attachment #5: Proponent's Phasing Plan

Attachment #6: Composite Transportation Component Plan

Attachment #7: Rendering of Proposed Development Looking Southeast

Attachment #8: Rendering of Proposed Development Looking Northwest

Attachment #9: Excerpt from Envision Durham Map 1

Attachment #10: Excerpt from Whitby Official Plan Schedule A – Land Use

Attachment #11: Excerpt from Whitby Official Plan Schedule G – Lynde Shores Secondary Plan

Attachment #12: Excerpt from Zoning By-law 2585

Attachment #13: Lands to be subject to Holding Provision

Attachment #14: Draft Proposed Official Plan Amendment #140

Attachment #15: Excerpt from Public Meeting Minutes, June 11, 2018

Attachment #16: Summary of Written Public Submissions

Attachment #17: Detailed Agency and Department Comments

Attachment #18: Proposed Conditions of Draft Approval