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Town of Aurora
Committee of Adjustment Report
No. C-2021-10

Subject: **Consent Application**
2419059 Ontario Inc.
497 Wellington Street West
PLAN 102 PT LOT 1 AND PT PART OF FORTY ACRE RESERVE RP
65R37398 PART 1
File: C-2021-10
Related Files: ZBA-2014-07 and SP-2015-01

Prepared by: Stephen Corr, Senior Development Planner

Department: Planning and Development Services

Date: November 11, 2021

Application

The purpose of the proposed consent application is to sever the subject lands, municipally known as 497 Wellington Street West, to facilitate the creation of eleven (11) lots and a private condominium road. The applicant is requesting provisional consent to sever and create the following parcels, as shown on the Submitted Draft Reference Plan (Appendix A, Severance Plan):

Part No.	Proposed Land Use	Lot Frontage	Lot Area
1	Single Detached Dwelling	12.84 m (42.1 ft)	392.8 m ² (4,228.1 ft ²)
2	Single Detached Dwelling	10.9 m (35.8 ft)	338.5 m ² (3,643.6 ft ²)
3	Single Detached Dwelling	10.9 m (35.8 ft)	338.7 m ² (3,645.7 ft ²)
4	Single Detached Dwelling	11.33 m (37.2 ft)	342.7 m ² (3,688.8 ft ²)
5	Single Detached Dwelling	12.95 m (42.5 ft)	958.0 m ² (3,643.6 ft ²)
6	Single Detached Dwelling	12.65 m (41.5 ft)	935.3 m ² (10,311.8 ft ²)
7	Single Detached Dwelling	10.9 m (35.8 ft)	805.5 m ² (8,670.3 ft ²)
8	Single Detached Dwelling	10.9 m (35.8 ft)	805.2 m ² (8,667.1 ft ²)
9	Single Detached Dwelling	12.72 m (41.7 ft)	940.6 m ² (10,124.5 ft ²)
10	Single Detached Dwelling	21.17 (69.5 ft)	482.6 m ² (5,194.7 ft ²)
11	Single Detached Dwelling	21.45 m (70.4 ft)	472.6 m ² (5,087.0 ft ²)
12	Private Condominium Road	N/A	862.5 m (9,283.9 ft ²)

Background

Subject Property and Area Context

The 0.79 ha (1.95 ac) vacant subject property municipally known as 497 Wellington Street West is located on the south side of Wellington Street West, east of Bathurst Street and west of Timpson Drive. The site has an approximate frontage of 60.4 m (198.2 ft) along Wellington Street West, and an approximate depth of 132.7 m (435.4 ft).

The site was previously developed with a detached dwelling, which according to aerial photographs, was demolished between 2007 and 2009. There is a significant amount of vegetation located on the property, particularly at the rear which slopes to the Tannery Creek which abuts the site to the south.

Surrounding land uses are predominantly residential, comprised of detached dwellings to north (across Wellington Street West), to the west and east (along Wellington Street West) and to the east on Dinsmore Terrace and to the south and southwest along Timpson Drive (which are separated by the Tannery Creek watercourse).

Proposal

The Applicant (2419059 Ontario Inc.) is requesting provisional consent approval to sever and create eleven (11) detached residential lots and a private condominium road on the subject lands, as shown on the Severance Plan on Appendix 'A', and described in the 'Application' section of this report. Staff note that the Severance Plan also shows 'Part 13', which is a 205.7 m² (2,214.1 ft²) parcel of land to widen the Wellington Street West right-of-way. This parcel has already been conveyed to the Region of York.

The purpose of this proposal is to facilitate the development of eleven (11) freehold lots with detached dwellings which will front and access a private condominium road, as shown on the proposed Site Plan on Appendix B. The private condominium road will have direct access to Wellington Street West.

The proposed lots will be 'Parcels of Tied Land' (POTLs) within a common element condominium development, meaning that they will be freehold units and lots that are 'tied' to the condominium for the shared maintenance of the private road and any shared utilities or services within the development site.

Related Planning Applications

Zoning By-law Amendment and Site Plan Control Applications

A Zoning By-law Amendment application was submitted to the Town in October 2014 (File ZBA-2014-07), followed by the site plan application submission in February 2015 (File SP-2015-01). The original submissions contemplated a similar private condominium road configuration with 22 townhouse units.

In response to concerns raised at a February 25, 2015, Public Planning Meeting, the applications were revised in August 2015 to propose 15 detached dwellings, also fronting, and accessing a private condominium road. Town Council refused the applications and subsequently, the applicant appealed Town Council's refusal of the applications to the Ontario Municipal Board (OMB) which was the Local Planning Appeal Tribunal (LPAT) and is now the Ontario Land Tribunal (OLT).

The appeal was based on the original 22 townhouse unit proposal, however, was revised to the current proposal of 11 detached dwellings on the private condominium road. The OMB issued an order on August 10, 2016, to allow the appeal and proposal for 11 detached dwellings on a private condominium road. On August 24, 2019, LPAT (continuing from the OMB) issued a subsequent order to for the Town to finalize the Zoning By-law Amendment and approve the Site Plan Application in accordance with the terms of the settlement.

The Zoning By-law Amendment to permit this development was enacted to implement the OMB and LPAT orders in July 2021 and is in full force and effect. The proposed development has been reviewed as part of the Site Plan Application submitted to the Town and an agreement has been drafted, however has not been finalized yet. Staff recommend as a condition of approval, should the Committee approve the consent application, that the owner execute a site plan agreement with the Town.

Draft Plan Condominium Application

The Draft Plan of Condominium Application to establish a condominium for the private road was submitted in September of 2017 under File CDM-2017-03, which has been circulated and reviewed by Town Departments and external agencies. Should this consent application be approved, a Recommendation Report will be brought forward to General Committee for issuance of Draft Condominium approval.

2017 Consent Application

The Applicant filed a consent application in 2017, which was approved by the Committee of Adjustment on September 14, 2017, to permit the same proposal as this current application. The Approval decision included several conditions to be satisfied prior to registration of the consent. The applicant failed to satisfy the conditions within the one-year period required by Section 53(41) of the Planning Act R.S.O. 1990, c.P.13,

and the consent approval lapsed. Consequently, the applicant has resubmitted this same consent application to implement the decision/orders issued by the OMB and LPAT.

Official Plan

The subject lands are designated as “Stable Neighbourhoods” by the Town of Aurora Official Plan. The Stable Neighbourhoods designation contains a number of older, distinct residential neighbourhoods. The Official Plan recognizes the importance of protecting and enhancing stable neighbourhood lands. New development within this designation shall be compatible with its surrounding context. The Stable Neighbourhood designation permits ground-related residential uses including detached, semi-detached and townhouse residential dwelling units.

The southwest corner of the property is designated “Environmental Protection” by the Official Plan. This designation is designed to identify, protect and enhance the environmental features and functions that will form a permanent Greenlands system.

Zoning

As noted, the implementing zoning by-law was enacted in accordance with the OMB and LPAT orders to permit the proposed development. This zoned the subject lands Detached Dwelling Fourth Density Residential – Exception 508 (R4(508)) and Environmental Protection – Exception 509 (EP(509)).

The R4(508) zone permits a maximum of 11 detached units subject to site specific provisions such as building setbacks, a maximum lot coverage of 40% per lot, and maximum building heights of 10.0 m (32.8 ft). The minimum required lot area is 325 m² (3,498.3 ft²) and the minimum required lot frontage is 10.9 m (35.7 ft). Each of the proposed lots comply with the zoning by-law requirements.

The EP(509) Zone is applicable to the south portion of the subject lands, and includes portions of the rear yards for Lots 5 through 9. The zone boundary is reflective of the ‘Top of Bank’ established in consultation with the Lake Simcoe Region Conservation Authority, as it slopes southward to the Tannery creek and is in place to protect existing natural features within this portion of the subject lands. This zone permits athletic fields, agricultural uses, conservation uses, golf courses, public parks, private parks, stormwater management ponds and woodlands. It prohibits buildings and structures, except those intended for flood or erosion control and approved by a Public Authority. Exception 509 permits a maximum encroachment of 3.7 m (12.1 ft) for balconies, decks and patios into this zone, which was agreed to as part of the LPAT settlement.

Preliminary Zoning Review

A Preliminary Zoning Review (PZR) was undertaken by the Building Services Division prior to submission of the subject application. The PZR confirmed that the proposed application will not result in any non-compliance with the Zoning By-law for each of the 11 proposed detached lots. In addition to the proposed lot configuration, the PZR reviewed the proposed site and elevation plans, which also confirmed that the proposed building siting and elevations comply with the applicable zoning requirements.

Planning Comments

When considering an application for consent to sever lands, regard shall be had to the criteria of Section 51 (24) of the Planning Act. This includes, amongst other things:

- Matters of Provincial Interest
- Conformity with the Official Plan and adjacent plans of subdivision
- Suitability of the land for the purpose in which it is to be subdivided
- The dimension and shape of the proposed lots
- Adequacy of utilities and municipal services
- Number and adequacy of highways

The proposed development will result in modest intensification for the subject lands which makes efficient use of land resources and existing services. Staff are of the opinion that the proposed consent application conforms to the Provincial Policy framework, including the Provincial Policy Statement and Places to Grow Act.

The proposed development conforms to the Region of York and Town of Aurora Official Plan, and is permitted by Zoning By-law 6000-17, as amended, including compliance with the minimum lot area and frontages contemplated by this consent application. The Zoning By-law Amendment and related Site Plan Application were approved by LPAT through a settlement reached between the Town and Applicant. Approval of this consent application will implement approval of the proposed development by LPAT settlement including the lot configuration. This proposed consent application is consistent with the 2017 Committee of Adjustment approval to permit the same lot pattern.

As a condition of approval, Staff are recommending the Site Plan Agreement be executed to ensure that technical studies and plans been fully accepted by the Town and external agencies, as well as ensuring any securities or financial obligations are satisfied. Staff are also recommending that this consent approval be subject to the

conditions recommend by the Engineering Division, Region of York and Lake Simcoe Conservation Authority, as outlined in the Additional Comments section of this report below.

With respect to land use compatibility, the resultant development form will consist of 11 detached dwellings within a common element condominium, accessed off a private condominium road from Wellington Street West. The proposed detached dwellings are compatible with the surrounding context, which is also predominantly developed with detached dwellings. Existing homes to the south and southwest are separated from the subject lands by Tannery Creek and staff are the opinion that they will not be adversely impacted from the proposed development. Where the subject lands do abut existing properties, the proposed lot pattern is sited to mitigate potential overlook and privacy concerns by providing 7.5 m minimum rear yard for Lots 10 and 11 (abutting 207 Wellington West to the east); a minimum 1.5 m side yard for Lot 5 (abutting 511 Wellington Street West to the west); and a 3.0 m side yard for Lot 9 (abutting 14 and 18 Dinsmore Terrace), as required in the enacted zoning by-law.

Matters related to site grading, servicing, storm water management as well as preservation of any existing trees, replacement planting or compensation for any tree removals will be in accordance with Town requirements and secured through execution of a site plan agreement and the issuance of site plan approval. The Applicant will also be required to provide cash-in-lieu of parkland dedication the Town for the proposed development, which will be addressed through a future Memorandum of Understanding (MOU) during the site plan process and prior to the issuance of any building permits. Servicing allocation for the 11 dwelling units is assigned.

Based on the above, staff have reviewed the proposed consent application in accordance with the criteria of Section 51(24) of the Planning Act are recommending approval of this consent application, subject to the Conditions in Appendix C.

Additional Comments

The consent application was circulated to Town Departments/Divisions and to external agencies for review and comment. The following comments were provided:

Department or Agency	Comments
Building Division	Preliminary Zoning Review was completed on August 19, 2021, stating that: 1. The

Department or Agency	Comments
	<p>proposed 11 detached dwelling units as indicated on the drawings comply with the requirements of Zoning By-law #6000-17.</p> <p>2- The subject property is located within the generic regulations of the Lake Simcoe Region Conservation Authority (LSRCA), therefore, an approval from LSRCA is required prior to the issuance of the Building Permit.</p> <p>3- Any tree removal shall be in accordance with the Town of Aurora Tree By-law # 5850-16. For more information, please contact the Parks Department at (905) 727-3123 extension 3223.</p>
Engineering Division	<p>Comments provided, dated October 18, 2021, stating:</p> <p>We have reviewed the above noted application and have no objection in principle to it subject to the following condition:</p> <p>1. The Owner shall enter into a site plan agreement with the Town which shall:</p> <p>a. provide all required engineering detailed design plans and reports to the Director of Planning & Development Services satisfaction.</p> <p>b. provide any documentation requested by the Director of Planning and Development Services to the Director's satisfaction, demonstrating that all required approvals applicable to the proposed site plan's engineering design required by the Town or any other government agency have been obtained.</p> <p>c. Include any other obligation to the Town financial or otherwise including but not limited to Engineering Fees and Securities, that is to the satisfaction of the Director of Planning & Development Services.</p>

Department or Agency	Comments
Transportation	No comments on this application (Dated October 21, 2021).
Operational Services (Parks)	<p>Comments provided, dated September 30, 2021, stating:</p> <p>"We have reviewed the documentation for the property associated with the above noted application and have no formal comments as these are being addressed with through Site Plan Application 2015-01."</p>
Operations (Public Works)	No comments received at the time of writing this report.
Accessibility	No comments on this application (Dated September 30, 2021).
Central York Fire Services	<p>Comments provided, dated November 4, 2021, stating:</p> <p>"No comments or concerns with access to subject property".</p>
York Region	<p>Comments provided, dated October 21, 2021, stating:</p> <p>"The Regional Municipality of York has completed its review of the above application and Site Servicing Plan located in associated file SP.16.A.0011, prepared by MGM Consulting, dated September 29th, 2016. The purpose of this application is to permit the creation of 11 new lots to facilitate a residential development.</p> <p>This file replaces CONS.17.A.0020 which has lapsed. Land for the Regional ROW has already been conveyed through the lapsed file.</p> <p>Water and Wastewater Servicing</p>

Department or Agency	Comments
	<p>The site servicing plan indicates that water and wastewater services are to be provided by local municipal infrastructure on Wellington Street.</p> <p>Proximity to Regional Infrastructure</p> <p>The Site Servicing Plan indicates that the servicing connections to the local infrastructure will cross the 900mm Regional Watermain on Wellington Street. Integrity of the above Regional infrastructure shall be protected and maintained at all times during construction and grading of the proposed development. Please be advised that any construction works in close proximity of the watermain, including tie-back and shoring systems require Region's approval prior to construction.</p> <ul style="list-style-type: none">• The Owner shall submit engineering designs showing the plan and profile views of the associated construction works related to the crossing works to the Region for review, comments and approval by the Infrastructure Asset Management (IAM) branch of Environmental Services;• All construction drawings showing works in close proximity of the Region's infrastructure shall include the following notes for the Contractor: "Integrity of the Regional 900mm watermain on Wellington Street, which are in close proximity north of the development, shall be protected at all times." <p>The Region's construction inspection staff, (ENVassetapprovals@york.ca) shall be invited to pre-construction meetings to identify site inspection requirements during works performed in close proximity of the Region's infrastructure. A minimum two weeks' notice is required.</p>

Department or Agency	Comments
	<p>Condition</p> <ul style="list-style-type: none">• a copy of an email confirmation by Town of Aurora staff stating that the allocation to the subject development remains valid at the time of the request for regional clearance of this condition.” <p>(As noted in this staff report, servicing allocation for the 11 units is assigned).</p>
LSRCA	<p>Comments provided, dated October 29, 2021, stating:</p> <p>Recommendation</p> <p>Based upon our review of the submitted information in support of the application, it is determined that the proposal is generally consistent and in conformity with the natural heritage and natural hazard policies of the applicable Provincial and Regional plans. As such, we recommend that any approval of this application for consent be subject to the following condition:</p> <ul style="list-style-type: none">a. That the Owner shall pay all development fees to the LSRCA in accordance with the approved Fees Schedule under the Conservation Authorities Act. Note: Under the 2021 LSRCA Fee Schedule, the amount of \$525.00 is required for each lot proposed.
Alectra Utilities	No comments on this application (Dated September 20, 2021).

Public Correspondence

Two Written submissions were received at the time of writing of this report. One was provided by an area resident at 108 Timpson Drive, citing no objection.

The other was from an area resident at 207 Wellington Street West citing concerns about the proximity of the proposed homes to Wellington Street West, and the proposed building heights and orientation, particularly for the proposed dwellings on Lots 10 and 11 (See Appendix A and B). In response, these concerns relate more to site plan and zoning matters, whereas the purpose of this consent application is to establish 11 lots and private road. As noted, the zoning and site plan applications were approved via a LPAT settlement, and the zoning is now in full force and effect to permit the proposed building heights and setbacks.

Should any other written submissions be received after the writing of this report, the Secretary Treasurer will provide the submission(s) to Committee members at the meeting.

Conclusion

Staff have reviewed the application with respect to the Section 51(24) of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, the Provincial Policy Statement, Provincial Plans and the Town's Official Plan and are satisfied with the proposed consent application.

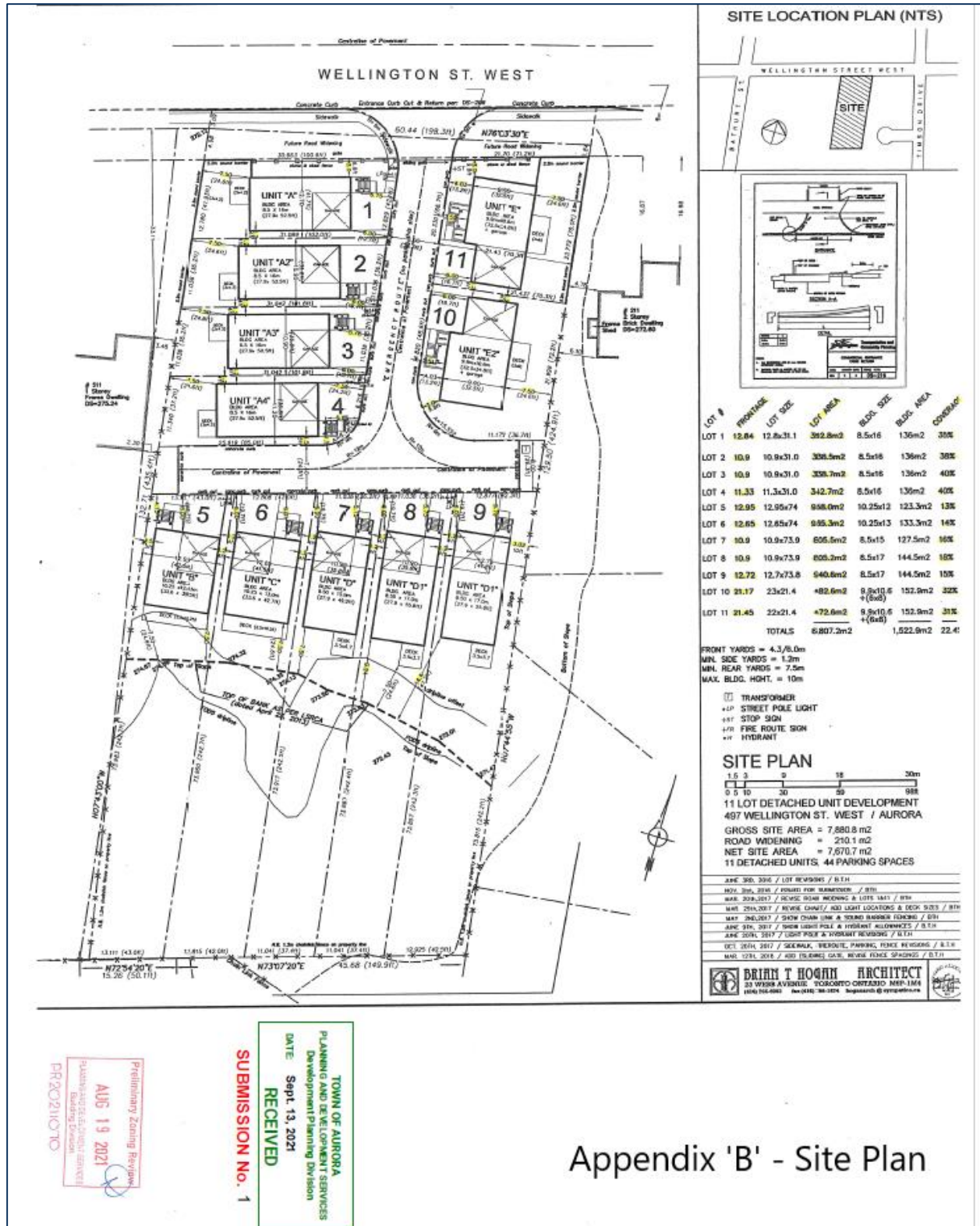
Based on the aforementioned, Staff have no objection to the approval of Consent application File C-2021-10, subject to the conditions attached (Appendix 'C')

Attachments

Appendix 'A' – Proposed Severance Plan

Appendix 'B' – Proposed Site Plan

Appendix 'C' – Conditions of Approval



Appendix 'B' - Site Plan

APPENDIX 'C' – Conditions of Approval

1. Payment of any outstanding property taxes owing to date for the subject property and that the Secretary Treasurer receive written confirmation that this condition has been fulfilled.
2. Submission to the Secretary-Treasurer of four (4) white prints of a deposited Reference Plan, for review showing the subject lands, which conforms substantially to the application form and sketch as submitted with this application (Appendix A). One copy of the deposited reference plan must be submitted to the Town prior to the issuance of the Certificate of Official. Please note, if the transaction in respect of which the consent was given is not carried out within the two-year period following issuance of the Certificate of Official, the consent effectively will lapse [Planning Act, R.S.O. 1990, c.P.13, as amended, s. 53 (43)]
3. Submission to the Secretary-Treasurer of the required draft transfers to effect the severance applied for under Files C-2021-10 in duplicate, conveying the subject lands, and issuance by the Secretary Treasurer of the certificate required under subsection 53(42) of the Planning Act. Subsection 50 (3 or 5) of the Planning Act, R.S.O 1990, as amended, applies to any subsequent conveyance of or transaction involving the parcel of land that is the subject of this consent.
4. That the Owner execute a Site Plan Agreement with the Town related to Site Plan Application, File SP-2015-01, to address matters including but not limited to engineering, parks, operations, and planning comments (including comments as outlined in the 'Additional Comments' section of the staff report dated Nov 11, 2021) and to ensure that any financial obligations, including CIL of parkland, fees and securities have been paid, to the satisfaction of the Director of Planning and Development Services.
5. That the Secretary Treasurer receive written clearance from the Region of York that Region of York condition to receive confirmation of servicing allocation from the Town has been satisfied.
6. The Applicant remit the outstanding Consent Application review to the Lake Simcoe Region Conservation Authority (LSRCA) as requested in their letter dated October 29, 2021 in the amount of \$525.00 per lot (2021 LSRCA Review Fee Schedule), and that the Secretary Treasurer receive written clearance from the LSRCA that this condition has been satisfied.