



Staff Report

Planning & Development Services – Planning Division

Report To: Committee of the Whole Meeting
Meeting Date: November 1, 2022
Report Number: PDS.22.126
Title: Recommendation Report – Abbotts Plan of Subdivision and Zoning By-Law Amendment
Prepared by: Shawn Postma, Manager of Community Planning

A. Recommendations

THAT Council receive Staff Report PDS.22.126, entitled “Recommendation Report – Abbotts Plan of Subdivision and Zoning By-Law Amendment”;

AND THAT Council enact a By-law so as to rezone a portion of the Bay Street West Road Allowance from the Residential ‘R1-1’ Zone to the Open Space ‘OS’ Zone.

B. Overview

The purpose of this report is to provide a recommendation to Council on an Application for Zoning By-law Amendment as directed by the Ontario Land Tribunal for the Abbotts Subdivision project.

C. Background

On June 10, 2022 the Ontario Land Tribunal (OLT) issued their decision on the Abbotts Subdivision, a proposed 22 unit residential development located south-east of Bay Street West and Lansdowne Street North. The appeal was submitted by the Owner of the lands on the failure of the Town of The Blue Mountains and County of Grey to make a decision within the required time frames under the Planning Act.

Minutes of Settlement were executed between the Owner, the Town, the County and Grey Condominium Corporation No. 11. The Harbour West Residents Group Inc. did not consent to the proposed settlement.

A number of opinions were provided to the Tribunal on a list of issues brought forward. These were considered over a 3 day hearing, with the Tribunal ultimately deciding:

- 1- That the Draft Plan of Subdivision, Conditions of Draft Approval, and Zoning By-law Amendment be approved.

- 2- That the County of Grey shall have authority to clear the Conditions of Draft Approval.
- 3- That the Town of The Blue Mountains pass an Open Space Zoning By-law Amendment for a depicted Tree Protection Zone.
- 4- In the event that there are difficulties in implementing the above, the Tribunal may be spoken to.

This report addresses Item 3 above.

Notice of Public Meeting was provided on September 13, 2022 for the addition of a tree protection area by rezoning a portion of the Bay Street W and Victoria Street N Road allowances from the Residential (R1-1) zone to the Open Space (OS) zone. It is noted that no additional technical changes to the overall development plan from what was previously considered by the OLT are proposed as part of this application. This report provides a summary, analysis and recommendation of the Zoning By-law Amendment application based on the legislation and policies in place.

It should be noted that the merits of the development proposal, lot layout, unit types, engineering matters, and other planning matters have been considered, addressed and decided on as part of the Ontario Land Tribunal Hearing. Further information on these items can be found in the Ontario Land Tribunal Decision OLT-22-002269 dated June 10, 2022 and attached as attachment #1 to this report.

Figure 1: Location Map

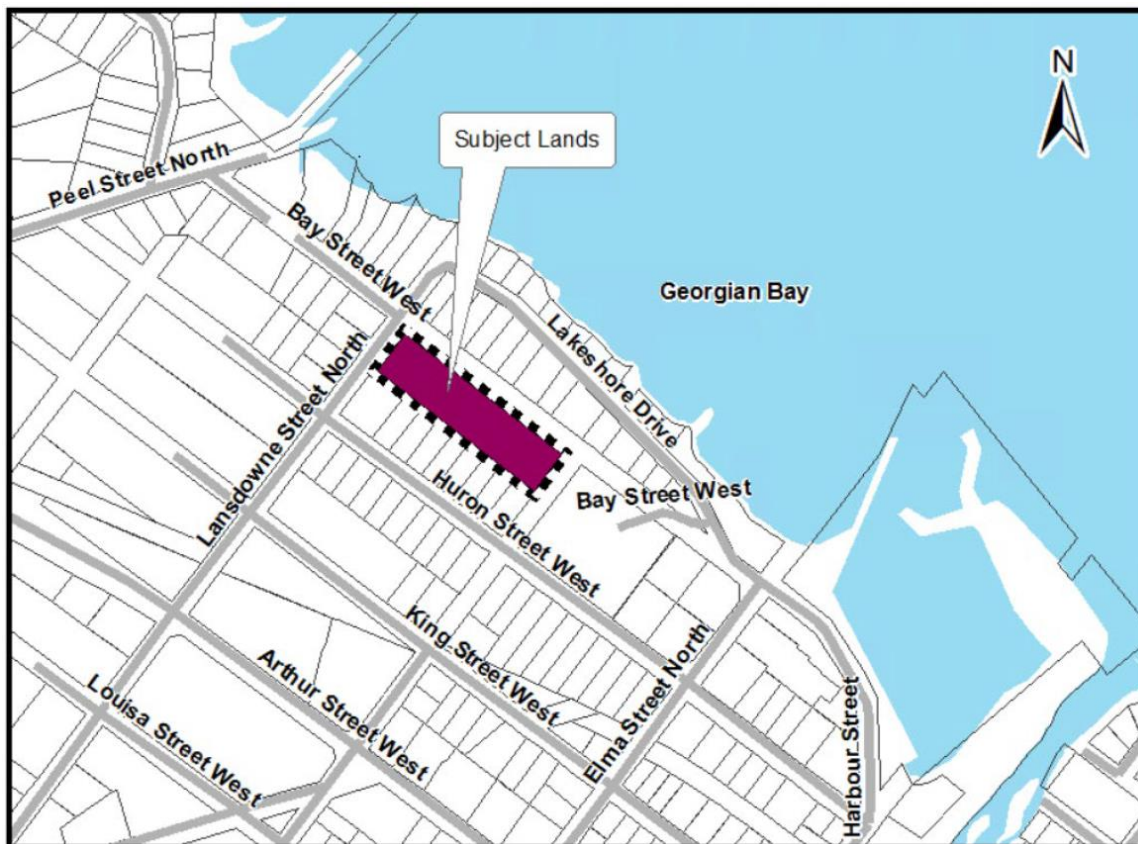
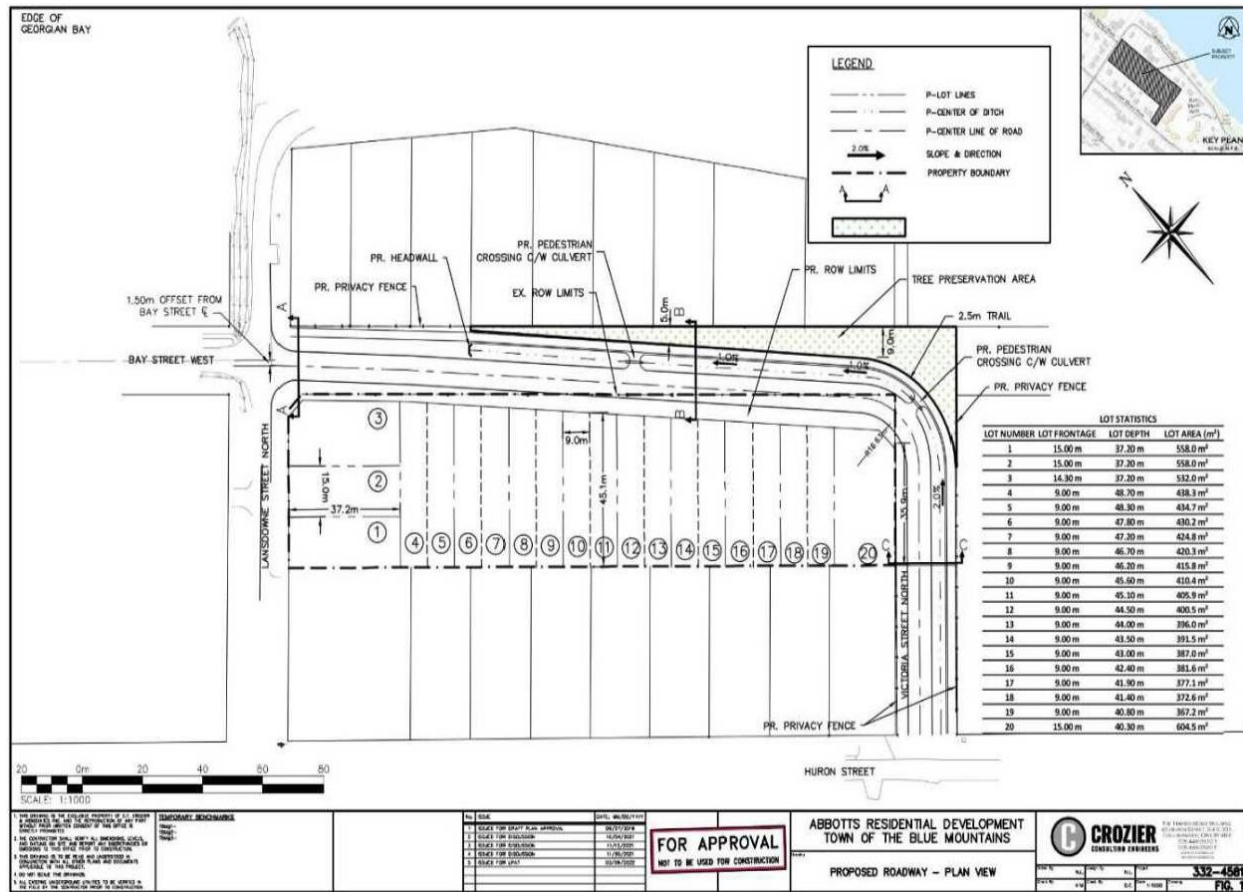


Figure 2: Abbotts Subdivision



D. Analysis

This section provides the staff analysis of the Application for Zoning By-law Amendment that proposes to rezone a portion of the Victoria Street North and Bay Street West Road allowances from the Residential R1-1 Zone to the Open Space OS Zone. The analysis provides a review of relevant legislation, policies, and identified issues.

Planning Act

The Ontario *Planning Act* gives municipal Councils the authority to pass zoning by-laws and make amendments to existing zoning by-laws under Section 34 of the *Act*. The *Planning Act* requires that in making planning decisions, Council must have regard for the list of matters of Provincial Interest, as outlined by Section 2 of the *Act*.

Planning staff are satisfied that there are no concerns with matters of Provincial Interest, as noted above.

Provincial Policy Statement 2020

The Provincial Policy Statement 2020 (PPS) provides direction on appropriate development, effective land use and long term economic prosperity while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. Land

use patterns within settlement areas shall be based on densities and a mix of land uses which efficiently use land and resources promoting resilient and vibrant communities. Decisions on Planning matters made by a municipal Council (or any other planning authority) must be consistent with the Provincial Policy Statement.

The proposed Zoning By-law Amendment implements a development concept that has already demonstrated consistency with the Provincial Policy Statement as described in the Ontario Land Tribunal Decision (See Page 11 of Attachment #1). The proposed Zoning By-law Amendment from Residential to Open Space remains consistent with the development concept considered by the Tribunal and does not raise any new concerns of provincial significance. Planning Staff are therefore satisfied that the proposed Amendment is consistent with the Provincial Policy Statement 2020.

Grey County Official Plan

The County of Grey Official Plan is intended to guide development within the whole of the County of Grey and provides broad policy framework to be included in local Municipal Official Plans, Secondary Plans and Zoning By-laws. The subject lands are designated 'Primary Settlement Area'. Similar to above, the proposed Zoning By-law Amendment implements a development concept that has already demonstrated consistency with the County of Grey Official Plan as described in the Ontario Land Tribunal Decision (See Page 14 of Attachment #1). Planning Staff are therefore satisfied that the proposed Amendment is consistent with the Grey County Official Plan.

Town of The Blue Mountains Official Plan

The Official Plan provides land use policy direction for the long term growth and development of the municipality. Additional details on the overall development concept and Official Plan conformity are described in the Ontario Land Tribunal Decision (See Page 17 of Attachment #1).

The Subject Lands are designated Community Living Area under the Town of The Blue Mountains Official Plan. Looking specifically at the Application for Zoning By-law Amendment, the Official Plan directs that all lands within the Community Living Area designation shall be placed in appropriate zone(s) in the implementing Zoning By-law.

The Blue Mountains Zoning By-law 2018-65

The Blue Mountains Zoning By-law 2018-65 sets property specific regulations on how a property may be used and how it is to be developed. The subject Road Allowance is currently zoned Residential R1-1 as all zone boundaries shown to follow an open or unopened road allowance shall be deemed to be the centreline of said road allowance. Mapping in the Zoning By-law does not show zoning on road allowances simply for clarity reasons only, and Section 2.4 of the By-law provides the requirements on how to determine the boundaries between zones.

The Residential R1-1 Zone permits single detached dwellings, accessory uses, buildings and structures, and other uses. The location of the Residential R1-1 Zone is on the unopened portion of the Bay Street West and Victoria Street North Road Allowances. Although zoned

residential, the subject lands do not comprise of a lot of record and a residential dwelling cannot be built on the Road Allowance lands unless a further process to create a lot is completed. It is noted that with the internal road system to service the Abbotts Subdivision, the remaining Road Allowance lands would not be of a sufficient size or shape to accommodate a new dwelling based on the required minimum lot standards and yard setbacks. Tree preservation can occur on Residential zoned lands without a rezoning, however in this case, through the Minutes of Settlement the Ontario Land Tribunal agreed that an extra level of tree protection can occur on a portion of the road allowance lands by rezoning the lands from Residential to Open Space. The Open Space Zone does not permit any buildings or structures and are generally intended to remain in their natural state. Additional details on the road allowances and tree protection were spoken to at the Ontario Land Tribunal where expert testimony provided the following:

“having open and connected streets is in the public interest. While there will be limited tree retention available in the road allowances, a tree protection block is being proposed. Furthermore, Vegetation Assessments and Vegetation Management Plans are being required through draft plan conditions 24 and 25.” (Ontario Land Tribunal Decision OLT 22-002269 dated June 10, 2022, Page 25 Paragraph 121)

And “a Tree Preservation Block has been proposed within the unopened road allowance of Bay Street West. In order to achieve this, the proposed roadway has been pushed further south and appropriate land dedications have been provided in the Draft Plan of Subdivision.” (Ontario Land Tribunal Decision OLT 22-002269 dated June 10, 2022, Page 25 Paragraph 122)

Based on the above testimony, the tribunal was satisfied that for the Abbotts Subdivision, the proposed tree retention in the unopened road allowance is appropriate and in the public interest. To implement the above tree preservation block within the unopened road allowance, the Tribunal has directed the Town to pursue a Zoning By-law Amendment to rezone the portion of the Road Allowance from the Residential R1-1 Zone to the Open Space OS Zone.

This proposed Zoning By-law Amendment does not alter the approved Abbotts subdivision. The rezoning provides a more visible/recognizable tree protection area as the Zoning By-law is the common document reviewed during new development, re-development and real estate transactions in the immediate area. Should Council refuse the Application for Zoning By-law Amendment, the Abbotts Subdivision can still proceed forward as designed, however the Zoning would remain as Residential R1-1 and tree preservation area will be identified within the Subdivision Agreement.

Planning Staff are therefore satisfied that the proposed Zoning By-law Amendment is an appropriate modification to the Blue Mountains Zoning By-law 2018-65

Public Comments

The statutory Public Meeting as required under the Planning Act was held on October 3, 2022. In response to the Notice provided the Town received comments from the County of Grey and 17 area residents.

The County of Grey have no concerns as the proposed Zoning By-law Amendment fulfills a requirement from the Ontario Land Tribunal Decision to zone a tree protection area in a portion of the unopened road allowances. County Staff has reviewed the proposed zoning amendment and note that the amendment fulfills this requirement and therefore have no further concerns.

The 17 area residents all noted objections to the proposed Zoning By-law Amendment. Attachment #2 provides a more detailed summary of the comments received. Attachment #3 provides the original comments as they were received. In summary, the noted objections include:

- Timing of Public Meeting and Council Decision with the current Council.
- Application is incomplete. Additional information required to provide existing tree inventory, proposed tree plantings, maintenance, Environmental Impact Study, drainage impacts.
- Official Plan conformity to 40% open space requirement and other policy sections.
- Concerns about how public comments are considered prior to Council decision.
- Conflict of Interest between a member of Council and Abbotts Subdivision Owner.

Regarding the comments that have been received, Planning Staff note that the timing of the public meeting and decision of Council is not impacted by a 'Lame Duck' period. Council has the authority to make a decision on applications for Zoning By-law Amendment. The Planning Application has been submitted by the Town in accordance with the Ontario Land Tribunal Decision. The complete application requirements include the Application form and fee. It is noted that the rezoning application supports the conclusions of the Ontario Land Tribunal Hearing where the merits of the application were considered. The requested additional information described in the comments received have been addressed through the Draft Plan Conditions that the Tribunal has placed on the development.

There remains substantial work to be completed to the satisfaction of the Town and County of Grey including the preparation of a Vegetation Assessment and Vegetation Management Plan. Together, both plans must address the vegetation on the site, the periphery of the site and within the unopened road allowances. These plans will identify the vegetation that can be maintained and how it will be protected during the development process. The development cannot proceed until these plans are completed and accepted. Other matters related to engineering design such as drainage will be reviewed prior to development to ensure that the stormwater management plans for the site are designed to Town Standards in accordance with good engineering design. Comments regarding Official Plan conformity have been discussed earlier in this report, concluding that Planning Staff are of the opinion that the proposed Zoning By-law Amendment complies with the Official Plan.

Regarding concerns about how comments are received by the Town during the consultation process, it should be noted that Planning Staff take all comments into consideration as they are received. Comments are integral to the planning process and are addressed in a variety of ways. All comments are forwarded to Council and the Developer for their own consideration. Depending on the comment received, it may also be sent to appropriate Town Staff or an independent third-party expert for review. Comments may be addressed through modifications to the Plans or by addition of new Draft Plan Conditions to ensure that the comment will be addressed at a later stage of the project when more detailed design is being completed. Other comments may be received for information. Planning Staff provide comments summaries and original comments as written with all Staff Reports to ensure all comments are heard.

The comments received as part of this Application for Zoning By-law Amendment have been reviewed and as a result Planning Staff do not have any further recommended changes to the Zoning By-law Amendment.

Based on the foregoing, Planning Staff have no further concerns or objections. It is our opinion that the proposed Zoning By-law Amendment is consistent with Provincial Policy, conforms to the County of Grey and Town of The Blue Mountains Official Plan and is appropriate for the lands. Planning Staff therefore recommend that Council enact the Zoning By-law Amendment as attached to this Staff Report.

E. Strategic Priorities

1. Communication and Engagement

We will enhance communications and engagement between Town Staff, Town residents and stakeholders

3. Community

We will protect and enhance the community feel and the character of the Town, while ensuring the responsible use of resources and restoration of nature.

4. Quality of Life

We will foster a high quality of life for full-time and part-time residents of all ages and stages, while welcoming visitors.

F. Environmental Impacts

Environmental Impacts related to the development of the lands was reviewed through the Ontario Land Tribunal process. The proposed By-law Amendment will secure an additional level of recognition and protection of a tree protection area.

G. Financial Impacts

The proposed By-law Amendment will require enhanced level of Town maintenance on the Road Allowance lands related to tree maintenance and preservation in accordance with the tree preservation zone.

H. In Consultation With

Adam Smith, Director of Planning and Development Services

I. Public Engagement

The topic of this Staff Report has been the subject of a Public Meeting and/or Public Information Centre which took place on September 19, 2022. Those who provided comments at the Public Meeting and/or Public Information Centre, including anyone who has asked to receive notice regarding this matter, has been provided notice of this Staff Report. Any comments regarding this report should be submitted to Shawn Postma, planning@thebluemountains.ca

J. Attached

1. Ontario Land Tribunal (OLT) Decision OLT-22-002269 Dated June 10, 2022
2. P3216 Amendment to Zoning By-law RE: Abbotts Open Space – Public Meeting
3. Original Comments Received

Respectfully submitted,

Shawn Postma
Manager of Community Planning

For more information, please contact:
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Report Approval Details

Document Title:	PDS.22.126 Recommendation Report - Abbotts Open Space Zoning By-Law Amendment.docx
Attachments:	- PDS.22.126 Attachment 1.pdf - PDS.22.126 Attachment 2.pdf - PDS.22.126 Attachment 3_Redacted.pdf
Final Approval Date:	Oct 21, 2022

This report and all of its attachments were approved and signed as outlined below:

Adam Smith - Oct 21, 2022 - 10:14 AM