

Staff Report

Report To: City Council
Report From: Sabine Robart, Manager of Planning & Heritage
Meeting Date: January 16, 2023
Report Code: CS-23-011
Subject: ZBA 42 – Removal of Holding for 3195 East Bayshore Road
(SkyDev Bayshore Owen Sound LP)

Recommendations:

THAT in consideration of Staff Report CS-22-011 respecting Zoning By-law Amendment No. 42, proposing to lift the Holding Provision from the MR zone to facilitate the Site Plan Approval process for the development of 3195 East Bayshore Road, City Council:

1. Finds that the application is consistent with the Provincial Policy Statement and the goals, objectives and intent of the City's Official Plan; and
2. In consideration of the staff recommendations and the written submission made, directs staff to:
 - a. Bring forward a by-law following execution of a servicing agreement and payment of capital contributions thereunder to remove the "H" provision to adopt Amendment No. 42 to the City's Zoning By-law No. 2010-078; and
 - b. Give notice in accordance with Section 34 of the *Planning Act*.

Highlights

- A Zoning By-law Amendment – Removal of Holding (No.42) has been submitted for the removal of a holding provision by SkyDev Bayshore Owen Sound LP through SkyDev (Brandon Almeida) to facilitate the Site Plan Approval process for the lands at 3195 East Bayshore Road.

- The effect of the zoning by-law amendment application is to remove the Holding provision, which was placed on the lands for the completion of land use compatibility studies, an urban design brief, Environmental Protection Act compliance, archaeological assessment, servicing studies and agreements, and re-grading relative to the final approvals.
- A number of studies and reports, including a Functional Servicing Report, Land Use Compatibility Study and Urban Design Brief, were submitted to support the applications.
- The proposal conforms to the policies of the City's 2021 Official Plan and meets the requirements of the City's Zoning By-law (2010-078, as amended)
- The application is recommended for approval.

Strategic Plan Alignment:

Legislated review process under the Planning Act.

Previous Report/Authority:

[City of Owen Sound Official Plan \(2021\)](#)

[City of Owen Sound Zoning By-law 2010-078](#)

[CS-14-090](#) Final Staff Report – OPA 5 & ZBA 10 (Item 12.b.4) (May 12, 2014)

[CS-17-088](#) Recommendation Report – ZBA 19 & Draft Plan of Subdivision 42T-16501 – Item 11.a.5 (April 24, 2017)

[CS-22-119](#) Recommendation Report –ZBA No. 38 – 3195 East Bayshore Road by SkyDev Bayshore Owen Sound LP (September 26, 2022)

Background & Proposal:

A Zoning By-law Amendment (No.42) for the removal of a Holding provision has been submitted by SkyDev Bayshore Owen Sound LP through SkyDev (Brandon Almeida) to facilitate the Site Plan Approval process for the lands at 3195 East Bayshore Road.

Property Description

The subject property is located at 3195 East Bayshore Rd in the City's northeast quadrant. The lands are located on the east side of the East Bayshore Road and have frontage on 32nd St E and 9th Ave E. The lands are sized approximately 15 ha (38 acres) and are presently vacant of buildings. The foundations and some concrete stockpiling of the former industrial buildings as well as an asphalt parking area remain.

Surrounding land uses include:

North: Former Veyance building containing light industrial uses

East: McArthur Retread Facility (Industrial), vacant industrial & Kiwanis Soccer Complex

South: Kenny Drain stormwater outlet & Hobart manufacturing facility

West: East Bayshore Road, a small strip of publicly owned shoreline with a boat launch area, Georgian Bay consisting of primarily hazard lands.

The lands were previously subject to a number of Planning Act approvals including OPA 5 and ZBA 10 in 2014, Draft Plan of Subdivision 42T-16501 and ZBA 18 in 2017 and ZBA 38 in the fall of 2022.

OPA 5 re-designated the lands from 'Industrial Transition Area' to 'Residential' to allow for the future residential development of the lands. The Official Plan amendment and associated Zoning By-law amendment (ZBA 10) implemented the Holding provisions detailed below to ensure that prior to residential development of the lands specific conditions must be met including land use compatibility with nearby industrial uses including mitigation measures, if required, urban design criteria, lot/building orientation and interface with existing industrial uses, architectural control, pedestrian connections, Environmental Protection Act compliance, archaeological study and stormwater management.

The subject lands are designated 'Residential' and 'Hazard Lands' in the City's Official Plan (2021) and are subject to site-specific Official Plan policies (Sec. 3.1.10.3), which set out the criteria for the removal of the 'Holding' provision on the lands including:

- c. The completion of land use compatibility studies, such as stationary noise, dust, and odour studies at the time of any future site plan or plan of subdivision application to understand the need for specific mitigation measures, as may be required;
- d. That any future plan of subdivision or site plan application includes the submission and approval of an urban design brief to address: overall plan design and layout; land use compatibility considerations such as the implementation of recommended mitigation measures from approved noise/dust/odour study; lot/building orientation and interface with existing industrial uses, built form and location of driveways; architectural design and control; and, pedestrian connections;
- e. Compliance with the Environmental Protection Act and its regulations;
- f. Archaeological Study;
- g. Servicing Studies and entering into agreements with the City with respect to the implementation of these upgrades; and,
- h. That those portions of the subject property located in the southwest quadrant, subject to periodic flooding, and as shown in the attached Schedule are subject to a holding provision. The City of Owen Sound shall not remove the "Holding" provision until such time as the flooding hazard has been removed through the regrading of the site. These works will be carried out with appropriate permits to the satisfaction of the City of Owen Sound and the Grey Sauble Conservation Authority.

The lands are zoned 'Multiple Residential' (MR) with Special Provision 14.55 with a Holding Provision and 'Hazard Lands' (ZH) in the City's Zoning By-law (2010-078, as amended). Special Provision 14.55 implements the OP and reiterates the criteria for removal of the Holding provision, which requires the submission and approval of the exact criteria outlined in OP Sec. 3.1.10.3 noted above.

The former RCA lands were purchased by SkyDev. The development concept by SkyDev proposed a higher density development on the lands and through Staff Report [CS-22-119](#) ZBA 38 rezoned the lands from the Low Density (R3)

zone to the Multiple Residential (MR) zone with site-specific zone regulations to facilitate a medium density multi building complex.

The Holding provisions which were previously applied to the site continued to be in force and effect on the MR zone.

For location context and surrounding land uses, please see the Orthophoto in Schedule 'A'. For the planning policy context, please see the Official Plan and Zoning Map in Schedule 'B'. The subject lands are fully described in Schedule 'C'.

The Proposal

The Zoning By-law Amendment (ZBA 42) application aims to remove the Holding provision, which was placed on the lands to require further analysis of land use compatibility, urban design, servicing, and other matters, prior to the development of the lands. The rezoning application does not propose any other changes to the existing site and building regulations or permitted uses.

The Holding removal application is required to facilitate the proposed residential development of lands consisting of eight (8), six-storey apartment buildings each with approximately 89 dwelling units for a total of 712 units. The proposal also includes the construction of three surface parking areas, two amenity buildings, an internal road system, on-site recreational facilities, and landscaping.

Submission & Process Details

As part of a complete application, the applicant has submitted the following materials for consideration:

Submission Item Title	Submission Item Detail
Planning Justification Report.	Prepared by GSP Group Inc. dated October 2022
Architectural Renderings	Prepared by SRM Architects Inc. dated October 19, 2022
Site Servicing and Grading Plans	Prepared by KWA Site Development Consulting Inc. dated October 21, 2022

Submission Item Title	Submission Item Detail
Functional Servicing and Stormwater Management Report	Prepared by KWA Site Development Consulting Inc. dated October 31, 2022
Noise Impact Study	Prepared by Cambrium Inc. dated October 27, 2022
Phase II Environmental Site Assessment	Prepared by Rubicon Environmental (2008) Inc. dated September 1, 2013
Phase II Environmental Site Assessment – Summary Report or Soil & Groundwater Analysis – Northern Samples	Prepared by Rubicon Environmental (2008) Inc. dated October 6, 2013
Record of Site Condition	Prepared by Rubicon Environmental (2008) Inc. dated November 28, 2013
Stage 1 and 2 Archaeological Assessment and Ministry Clearance Letter	Prepared by The Archaeologists Inc. dated July 27, 2015
Urban Design Report	Prepared by GSP Group Inc. dated October 2022

The applicant engaged the City in the Pre-consultation process in May 2022. Subsequently, the process relating to the formal application has followed the City's requirements:

Date	Step	Days
November 07, 2022	Submission of complete application and fees	1
November 18, 2022	Letter of Complete Application to applicant	12
November 25, 2022	Request for Comments send to City staff and partner agencies	19

Date	Step	Days
December 16, 2022	Notice of Complete Application & Intention of Lift Holding	40
January 16, 2023	Recommendation Report & Decision of Council	71

Analysis:

The proposal must meet all development standards and policies applicable to projects within the City of Owen Sound. The proposal must be consistent with the Provincial Policy Statement and in conformity with the City Official Plan and Zoning By-law. Schedule 'B' contains the applicable Official Plan and Zoning By-law Mapping.

The application is subject to review by the City's Development Team and external commenting agencies. Applicable policies, standards, and comments received are generally reviewed below.

Planning Act and Provincial Policy Statement

The Provincial Policy Statement (PPS, 2020) has been reviewed regarding the subject proposal. Municipal decisions on planning matters are required to be consistent with the PPS.

The PPS Vision for the long-term prosperity and social well-being of Ontario focuses on growth and development within settlement areas and recognizes that land use must be carefully managed. Strong, liveable, and healthy communities promote and enhance human health and social well-being, are economically and environmentally sound, and are resilient to climate change.

The PPS directs development to fully serviced, designated settlement areas and requires contiguous development that minimizes land consumption and servicing costs. The proposal represents growth within a Settlement Area on an existing parcel that makes use of existing infrastructure and minimizes negative impacts.

The PPS encourages opportunities for accommodating a significant supply and range of housing options through intensification and redevelopment, including the redevelopment of brownfield sites, where suitable existing or planned infrastructure and public service facilities are available to accommodate projected needs. The proposed development represents the

redevelopment of a brownfield site. Historically the subject property was the site of RCA Victor Co. Ltd, an industrial and commercial operation. The former owner filed a 'Record of Site Condition' (RSC) in 2013 ([211206](#)) under part XV.1 of the Environmental Protection Act, which identified the intended use of the property as 'Residential'.

The application must demonstrate that the lands can be serviced with full, urban municipal water and sanitary services and are designed with stormwater management best practices to ensure consistency with the PPS (Section 1.6.6). Full municipal service infrastructure and capacity are available for the proposed development. The onsite SWM system will meet pre-development levels through the use of orifices and surface/ underground storage. The SWM report submitted in support of the application notes that an enhanced level of protection for the runoff will be achieved, and an oil grit separator will be installed to treat runoff from paved areas. Thermal mitigation will be achieved using thermal mitigation chambers in each of the site's catchment areas.

The redevelopment and intensification of a remediated brownfield site in a fully serviced urban context, which is supported by transportation facilities and is near public service facilities, is consistent with the direction provided by the PPS.

County of Grey Official Plan

The entire City of Owen Sound is designated as a 'Primary Settlement Area' in the County of Grey Official Plan (County OP).

Settlement areas with full municipal services are to be the focus of most of the growth within the County. The County OP promotes a full range of residential, commercial, industrial, recreational, and institutional land uses within Primary Settlement Area. Land-use policies and development standards are to be in accordance with the local Official Plan. The County has been consulted on the proposal, and County staff have no objection to the application.

The proposal conforms to the policies of the County OP.

City of Owen Sound Official Plan

The subject property is designated 'Residential' with site specific criteria (3.1.10.3) for the removal of the Holding provision and 'Hazard Lands' in the 2021 Owen Sound Official Plan (OP).

The Residential designation permits the development of lands for residential uses, which shall be the predominant area for housing within the City. Permitted uses in the Residential designation include single detached, semi-detached, various forms of townhouse and apartment buildings. Residential uses shall be permitted at low, medium and high densities.

The development proposes eight (8), six (6) storey apartment buildings with a total of 712 units at a density of 46.32 units per hectare which classifies the development as medium density in accordance with the OP's residential density classification (26-60 units/ha). A zoning by-law amendment was previously approved to permit the form and density of development.

Holding Provisions

Site Specific criteria 3.1.10.3 applies to the subject lands, municipally known as 3195 East Bayshore Road. The site-specific criteria identifies that the subject lands are subject to the Holding Provisions of section 9.1.2 of the Official Plan.

Section 9.1.2 of the OP identifies that Holding provisions allow the City to zone lands for a specific use but ensure that development does not proceed until such time as identified conditions have been satisfied. The actions or requirements for the removal of the Holding provision vary on a site-by-site basis and are set out in the City's Zoning Bylaw and addressed in the OP. The City may pass a by-law removing the "H" symbol once the conditions of the holding provision have been satisfied.

In order to remove the "H" provision, the submission and approval of the following is required: The completion of land use compatibility studies, such as stationary noise, dust and odour studies at the time of any future site plan or plan of subdivision application to understand the need for specific mitigation measures, as may be required;

- a. That any future plan of subdivision or site plan application include the submission and approval of an urban design brief to address: overall plan design and layout; land use compatibility considerations such as implementation of recommended mitigation measures from approved noise/dust/odour study; lot/building orientation and interface with existing industrial uses, built form and location of driveways; architectural design and control; and, pedestrian connections;
- b. Compliance with the Environmental Protection Act and its regulations;

- c. Archaeological Study;
- d. Servicing Studies and entering into agreements with the City with respect to the implementation of these upgrades; and,
- e. That those portions of the subject property located in the southwest quadrant, subject to periodic flooding, and as shown in the attached Schedule are subject to a holding provision. The City of Owen Sound shall not remove the “Holding” provision until such time as the flooding hazard has been removed through the regrading of the site. These works will be carried out with appropriate permits to the satisfaction of the City of Owen Sound and the Grey Sauble Conservation Authority.

Land Use Compatibility

A Compatible Use Odour, Dust and Noise Assessment was completed by R.J. Burnside & Associates Limited on May 10, 2016 and concluded that an updated noise impact study was required to consider revised road noise impact calculations and stationary noise sources. A Noise Impact Study prepared by Cambium Inc. and dated October 27, 2022 was submitted with the lifting of Holding application.

The Noise Impact Assessment concluded that the proposed development will comply with NPC-300 Guidelines and is compatible from a noise perspective. The report does not recommend any specific noise control measures and typical Ontario Building Code façade construction will be sufficient to achieve indoor sound level criteria.

The City’s peer reviewer noted that Noise Study has addressed the requirements identified in the Terms of Reference related to the D-6 Guidelines and NPC-300 Environmental Noise Guideline Stationary and Traffic Sources. The Noise Study was prepared by a qualified professional and provides conclusions and recommendations from the detailed analysis.

Urban Design

An Urban Design Report completed by GSP Group Inc. and dated October 2022, was submitted as part of the zoning by-law amendment application to lift the Holding. The report addressed the Urban Design policies of Section 8 the Official Plan and addressed the urban design considerations of site-specific provision 3.1.10.3.

Compliance with Environmental Protection Act

The applicant submitted a Phase II Environmental Site Assessment, Phase II Environmental Site Assessment – Summary Report of Soil & Groundwater Analysis – Northern Samples, and Record of Site Condition.

The Record of Site Condition was certified on May 6, 2013 and filed to the Environmental Site Registry on November 28, 2013 ([211206](#)).

Archaeological Assessment

A Stage 1 and 2 Archaeological Assessment was submitted by the applicant. The stage 2 assessment did not result in the identification of any archaeological resources and no further archaeological assessment of the property was recommended.

The applicant has also submitted a Ministry letter identifying that the Stage 1 and 2 Archaeological Assessment was entered into the Ontario Public Register of Archaeological Reports.

Servicing

The applicant has submitted a Functional Servicing (FSR) and Stormwater Management (SWM) Report. The report concluded that the proposed development can be adequately serviced by existing City infrastructure subject to a number of system upgrades.

The existing infrastructure that services the subject property includes two significant infrastructure upgrades that the City completed in anticipation of the development on the subject lands. These upgrades provide wastewater servicing capacity and multi modal transportation connectivity to the remainder of the City. Through the pre-consultation relating to ZBA 38 and the technical report and recommendation report for ZBA 38 the requirement for a capital recovery contribution from the developer was identified.

Two agreements will be used to address the servicing for the development of the lands. The first agreement will be executed prior to the passing of the bylaw to remove the Holding provision and will provide for the capital recovery contribution from the developer for:

- Wastewater infrastructure upgrades - \$1,232,326.00
- Pedestrian link (sidewalk) upgrade from 28th St E to the Kenny Drain as part of the rehabilitation of East Bayshore Road - \$435,684.00

The second agreement will be executed as part of the Site Plan approval process and detail the infrastructure upgrades identified in the Functional Servicing Report and also includes, among other matters:

<p>Infrastructure Upgrades to be completed through the Site Plan Approval Process</p> <p>(Upgrades to be completed at the developer's expense & detailed in a servicing agreement)</p>
<p>PRV/PSV (pressure reducing valve/pressure sustaining valve) in a below grade chamber proposed to be located on the 9th Avenue East RA in proximity to the soccer complex to connect the Industrial Pressure Zone to the Municipal Pressure Zone.</p>
<p>Water mains on 32nd Street East and 9th Avenue East are AC pipe approximately 60 years old. These mains are to be replaced at the Developer's expense with PVC water mains as a component of site plan approval</p>
<p>Upgrade the portions of East Bayshore Road (Grey Road 15), 32nd Street East, and 9th Avenue East, fronting the subject lands, to urban cross-sections (including but not limited to watermain, PRV/PSV chamber, turning lanes, sidewalks, streetlighting, curb & gutter, landscaping, and stormwater infrastructure)</p>

Hazard / Flooding

The applicant has submitted a site plan and engineering plans identifying the proposed site works and development area. There is no development proposed in the southwest quadrant of the site, which is subject to periodic flooding. The Grey Sauble Conservation Authority (GSCA) has reviewed the proposed zoning by-law amendment and noted that the entire area of flooding concern on the property is encompassed by the Hazard Zone. As such, GSCA is satisfied that the intent of the holding provision related to the hazard lands has been met.

The proposal conforms to the City's Official Plan (2021) subject to the applicant and City entering into a servicing agreement to address capital recovery contributions prior to the bylaw being passed to remove the Holding.

City of Owen Sound Zoning By-law (2010-078, as amended)

The subject property is zoned 'Multiple Residential' (MR) with Special Provision 14.55 and a Holding Provision, and 'Hazard Lands' (ZH) in the City's Zoning By-law (2010-078, as amended).

The MR and Special Provision 14.55 zone apply to most of the parcel, with the ZH zone limited to the southwest corner. Special Provision 14.55 identifies the requirements to lift the Holding Provision and provides site-specific zone regulations for the MR zone. When the Holding provision is removed, all the uses listed in the MR zone are permitted and Special Provision 14.55 will continue to apply, providing for site-specific regulations for multiple residential developments.

Removal of Holding

Special provision 14.55 provides study requirements for the removal of the Holding. These requirements are the same as the requirements of site-specific criteria 3.1.10.3 of the Official Plan as discussed above. The required studies and reports have been submitted to the City and staff and agencies have reviewed and identified that the requirements to lift the "H" symbol have been addressed through the submitted studies and reports.

The proposed Zoning Amendment meets the general intent and purpose of the City's Zoning By-law.

City Staff and Agency Comments

In response to the request for comments from the Planning & Heritage Division, the following is a summary of comments received for review pertaining to the subject application. All comments can be found attached hereto as Schedule 'F'.

Building Division

Comment has been received from the City's Building Division with no objection to the proposed zoning by-law amendment.

Grey County

Staff Report CS-23-011: ZBA 42 – Removal of Holding for 3195 East Bayshore Road (SkyDev Bayshore Owen Sound LP)

Comments have been received from the County of grey with no objection to the proposed zoning by-law amendment. County staff did provide comments related to the site design which can be considered through the future site plan approval process.

Enbridge Gas

Comment has been received from Enbridge Gas with no objection to the proposed zoning by-law amendment.

Public Works and Engineering Department

Comment has been received from the City's Public Works and Engineering Department with no objection to the proposed zoning by-law amendment subject to the following as detailed in the Engineering Services Staff Report dated January 09, 2023:

That the Applicant enter into a legal agreement with the City to provide for:

1. Payment of the Capital Recovery Charge of \$1,232,326.00 to recover costs for previous wastewater infrastructure upgrades required to facilitate development of this property.
2. Payment of the Capital Recovery Charge of \$435,684.00 for the pedestrian link (sidewalk) upgrade required from the Kenny Drain to 28th Street East along East Bayshore Road.

Fire and Emergency Services

Comment has been received from the City's Fire and Emergency Services department with no objection to the proposed zoning by-law amendment.

Grey Sauble Conservation Authority (GSCA)

Through Zoning By-law Amendment 38 the Hazard Zone ('ZH') has since been expanded to encompass the entire area of flooding concern. GSCA are of the opinion that this rezoning satisfies the Section 3.1 Natural hazard policies of the PPS, and thus the intent of the holding provision related to the hazard lands has been met.

Historic Saugeen Metis (HSM)

Comment has been received from the Historic Saugeen Metis with no objection to the proposed zoning by-law amendment.

Next Steps:

In accordance with the *Planning Act* and City protocols for processing Planning Act Applications, the following outlines the next steps in the process:

Anticipated Date	Step	Days
January 30, 2023	Passing of amending by-law and Notice of Decision subject to Capital Recovery Agreement completion.	85

Financial Implications

The proposed development is considered a 'Rental Housing Development' as defined by the [City's Development Charges By-law \(2020-112\)](#). In accordance with the current By-law, the owner is exempt from payment of City development charges upon the issuance of a Building Permit provided a Development Charges Exemption Agreement is executed with the City, to the satisfaction of the Director of Corporate Services.

Based on current development charge rates, the amount expected to be exempt for the subject development having 712 units equals \$3,502,328.C

Receipt of capital contribution from developer for infrastructure upgrades completed by the City through an agreement for wastewater and sidewalk upgrades with a total of \$1,668,010.

Communication Strategy:

Planning Staff will communicate the decision of Council with the applicant and will work with the applicant to fulfill the remainder of their obligations in the Site Plan Approval Process.

A Zoning By-law Amendment to remove a Holding requires that Notice of Intention of Lift a Holding be provided. Notice of Complete Application & Intention of Lift Holding was provided on December 16, 2022 by a posting on the subject property as well as mailings to property owners within 120 meters of the property boundary and to those persons who had requested notice through the ZBA 38 process.

Consultation:

The application was circulated to various City Departments and our commenting agencies as part of the consultation process. Planning staff have been in communication with the applicant throughout the process.

Attachments:

Schedule 'A': Aerial Photograph illustrating location of lands

Schedule 'B': Official Plan and Zoning Map

Schedule 'C': Property Details

Schedule 'D': Site Plan

Schedule 'E': Agency Comments

Recommended by:

Sabine Robart, M.SC. (PL), MCIP, RPP, Manager of Planning & Heritage

Pam Coulter, BA, RPP, Director of Community Services

Submission approved by:

Tim Simmonds, City Manager

For more information on this report, please contact Sabine Robart, Manager of Planning & Heritage at srobart@owensound.ca or 519 376 4440 ext. 1236.