



Staff Report

Report To: Council Meeting
From: Heather James, Planner
Date: 2020-11-23
Subject: Draft Plan of Subdivision and Zoning By-law Amendment Seaside Waterfronts Inc.

Recommendation:

That West Elgin Council hereby receives the report from Heather James regarding the applications for Draft Plan of Subdivision, file no. 34T-WE1501 and to amend the Zoning By-law, file no. P 7/2011 for Concession 14, Part of Lot 6, Seaside Waterfronts Inc.; and,

That West Elgin Council hereby receives comments at the public meeting for the Draft Plan of Subdivision and will provide a recommendation to the County of Elgin at a future meeting; and,

That West Elgin Council consider providing a first and second reading of the By-law to amend the Zoning By-law, subject to the conditions on the By-law, as presented in the in the By-law portion of the agenda and that a third reading of the By-law be considered after the Plan of Subdivision has received draft plan approval.

Purpose:

Applications for draft plan of subdivision and zoning by-law amendment were submitted to the Municipality of West Elgin for Seaside Waterfronts Inc. c/o Gary Blazak. The subject lands are legally described as Concession 14, Part of Lot 6 and have frontage on Gray Line, Havens Lake Road and Furnival Road within the community of Port Glasgow (as shown the attached Key Map).

Background:

The Draft Plan of Subdivision proposes development of the 24.66 ha (60.94 ac.) subject lands consisting of 62 blocks with a mixture of residential (single detached dwellings, townhouses and quadplexes), commercial, mixed use commercial/residential, open space, wastewater treatment facility and servicing, walkways and roadways (as shown on the attached Draft Plan of Subdivision).

The following current studies/reports have been completed as part of the draft plan of subdivision process:

- Planning justification report (residential), prepared by Kirkness Consulting Inc. and Ron Koudys, Landscape Architect, November 2010
- Planning justification report (residential), interim addendum, prepared by Kirkness Consulting Inc., Biologics Inc. and Sco-Terra Consulting Group Limited, July 2014
- Planning report commercial block, prepared by Kirkness Consulting Inc., Biologics Inc., RKLA Inc. and Sco-terra Consulting Group, January 2015

- Municipal Class Environmental Assessment, Environmental Study Report Update, prepared by Gary Blazak and MTE, January 2020
- Environmental impact study, prepared by Biologics Inc., May 2015 and further updated in November 2015
- Geotechnical assessment revised report, prepared by Golder Associates, May 2016
- Archaeological assessment (stage 4), prepared by Mayer Heritage Consultants Inc., February 2008; Addendum to archaeological assessment (stages 1 to 3), March 2010 and 2013 (stage 4 investigation of location 15)
- Archaeological assessment (stages 1 & 2), Port Glasgow commercial block, prepared by Mayer Heritage Consultants Inc., February 2012
- Archaeological assessment (stages 1 & 2), Port Glasgow stormwater management pond, prepared by Mayer Heritage Consultants Inc., October 2013

Sixteen Mile Creek runs along the westerly boundary of the subject lands. The Douglas Municipal Drain runs through a portion of the lands along the easterly boundary. The proposed development will be serviced with a privately piped water system and private sewage treatment plan. All roads within the development will be privately owned and privately maintained. Should draft plan of subdivision approval be granted and final approval obtained, the owner intends to proceed with filing an application for draft plan of condominium.

The zoning by-law amendment will rezone the subject lands from Lakeshore Development (LD) to Residential First Density (R1), Residential Third Density (R3), Tourist Commercial (TC) and Open Space (OS) with site-specific zone provisions, where appropriate. Holding (H) conditions subject to future site plan approvals or agreements is also proposed for each block.

Municipal Class Environmental Assessment

Notice of Completion of the Environmental Assessment was filed on August 8, 2019. The Draft Plan of Subdivision has been designed in accordance with the Environmental Assessment as part of an Integrated Draft Plan Environmental Assessment process and received approval from the Ministry of Environment, Conservation and Parks on March 13, 2020. The Environmental Study Report has completed the Municipal Class Environmental Assessment portion of the required work such that Council can now contemplate the Planning Act approvals to enable this development proposal to proceed. The Municipal Class Environmental Assessment was required to address servicing and stormwater management.

Public Meeting and Approval Authority

The County of Elgin is the Approval Authority for Plans of Subdivision. The County has delegated the mandatory public meeting required by the *Planning Act* to the Municipality of West Elgin, to obtain municipal and public comments on the proposed Draft Plan. Based on the outcome of this Public Meeting, Council will make a recommendation to the County of Elgin Approval Authority regarding the suitability of the Plan for Draft Approval. In granting Draft Approval, the County along with the municipality will stipulate several conditions that must be satisfied, including a requirement for a Subdivision Agreement between the Owner and the Municipality of West Elgin. The owner may apply to the County of Elgin for Final Approval of the Plan of Subdivision once the Manager of Planning is satisfied that all the conditions of Draft Approval have been met. Final Approval allows the subdivision blocks to be registered, and for the owner to proceed with meeting the requirements for the removal of the Holding conditions on each of the blocks.

The Municipality of West Elgin is the approval authority for zoning by-law amendments and is holding a joint public meeting to consider the draft plan of subdivision and zoning by-law amendment.

Public Meeting Notification

A notice of public meeting was published in the West Elgin Chronicle on October 29, 2020. The notice was also posted on the municipality's website and social media account. A notice of public meeting was also circulated to all neighbouring property owners within 120 metres of the subject lands.

Circulation of the Applications

The draft plan of subdivision and zoning by-law amendment applications were circulated to municipal staff for comments. The following comments were received:

Chief Building Official

'I have no comments or concerns at this time.'

Fire Chief

'The Fire Department's main concern would be the need for fire hydrants in this development for fire suppression needs.'

Manager of Utilities Services

'There is a 10" watermain that comes down Furnival Road to Gray Line, so sufficient to add a fire hydrant or two if needed.'

Manager of Operations and Community Services

'There is a 6" watermain on Gray Line that runs to a point just west of Havens Lake Road that comes off the 10" watermain that runs down Furnival Line. Then a 4" watermain runs down Havens Lake Road from the 6" watermain on Gray Line to the marina. A meter chamber would be installed off the mainline and waterlines beyond that meter (within the development) would be private. There is sufficient capacity at Furnival Road, but the system may need to be upgraded from there to the development depending on the requirements of the Fire Department. This cost would be the responsibility of Seaside.'

Gray Line, west of Furnival Road and Havens Lake Road are currently included in West Elgin's 'No Winter Maintenance' by-law. This would need to be amended so these sections would be serviced year-round. Additional maintenance expense would be relatively low as it would only add approximately 750 metres of roadway to the winter maintenance program.'

Comment: As a condition of draft plan approval, the developer will need to provide engineering plans that determine the size of watermain, and the number of fire hydrants required. All other servicing requirements will be a condition of draft plan approval. The municipal engineer and Fire Chief will be required to approve such plans. As well as a condition of draft plan approval, the municipality will be required to amend the 'No Winter Maintenance' by-law to provide year-round service.

The applications were also circulated to public agencies for comments. Throughout this process, extensive consultations with the Ministry of Environment, Conservation and Parks, Ministry of Natural Resources and Forestry, Ministry of Tourism, Culture and Sport and the Ministry of Municipal Affairs and Housing have taken place through the One-Window circulation through the

Ministry of Municipal Affairs and Housing. Several comments have been received over the years from all these ministries, which have been incorporated into the reports and studies supporting these applications. In particular, the environmental study report, January 2020 incorporates the comments received from these ministries. There are no outstanding comments to be addressed by the developer from the provincial ministries.

Comments have been received on numerous occasions from Lower Thames Valley Conservation Authority throughout the years. The most recent comments received are below:

'Please be advised that the above-mentioned application has been reviewed by this office. The Authority is responsible for addressing the Natural Hazard Section of the Provincial Planning Policy Statement as well as the Conservation Authority's Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation, O. Reg. 152/06 under the Conservation Authorities Act. The property in question is subject to the Authority's Development and Alteration to Shorelines and Watercourses portion of the regulations. The issue of concern in this area is the Lake Erie shoreline, stable slopes, natural watercourses, their associated ravine systems, flooding on the lower table lands and erosion.

Permission from this office is required prior to any works/construction taking place within the regulated areas for this proposed development. The upper table lands are not subject to flooding of a general nature and as such structures are not required to be flood proofed. However, the flood proofing of structures for the purposes of prevention of flood damage from local, overland drainage waters is always recommended. Any flood proofing requirements for the lower table lands can be determined at time of the permit application process. Setbacks from the Lake Erie shoreline and the ravine systems will be required to any proposed structure(s). Please note that several areas in the proposed plan will have setback requirements from nearby natural hazards. Structures to be placed in Block 12 will have setback requirements from Lake Erie. There will also be setback requirements from the ravine feature for the Douglas Drain outlet for the lot layout and servicing. Setbacks on the north side of the drain as well as the ravine feature along Haven's Road will also be required to any proposed structure(s) due to the lot's proximity to the ravine feature.

During earlier phases of project planning, the proponent has addressed most of the LTVCA concerns for this proposed development. However, there are still outstanding concerns around setbacks for Block 12. For the Block 12 component, the LTVCA requests that a Holding provision be placed on this Block at this point in time. The majority of lands within Block 12 are located within the LTVCA's regulated area and would not comply with Provincial Policy. To keep this subdivision moving along the process, the CA agreed with the County Planner at that time that Block 12 will remain in this designation until the CA and proponent can come to an agreement on the Regulatory requirements for this area.'

Comment: Mr. Blazak has been provided a copy of the comments from Lower Thames Valley Conservation Authority and they have been attached to this report. Block 12, as well as all the blocks proposed for the draft plan of subdivision are recommended to be subject to a Holding provision.

Enbridge Gas Inc.

'It is Enbridge Gas Inc.'s (operating as Union Gas) request that as a condition of final approval that the owner/developer provide to Union the necessary easements and/or agreements required by Union for the provision of gas services for this project, in a form satisfactory to Enbridge.'

Comment: Mr. Blazak has been provided a copy of the comments. The comments from Enbridge Gas Inc. will be included as a condition of draft plan approval.

At the time of writing of this report, one comment of concern was received from the public, Audrey H. Miller who resides at 8577 Furnival Road. Ms. Miller's comments have been attached to this report and have also been summarized below:

- Serious problem at the mouth of Sixteen Mile Creek; water in Lake Erie is very high; erosion and flooding; the opening of the creek is blocked
- Wetlands are completely flooding and overflowing at times in the marina basin; without action on these problems we may have no marina and no beach
- Need to fix these problems before dumping more water from Seaside into the creek and marina basin
- Most of the studies and reports are out of date; do not pertain to the changed conditions and landscape today
- Due to pandemic, marina and beach area are filled to capacity; no available parking; Havens Lake Road is overwhelmed as people flock to this area
- Requesting to deal with current problems before moving on to create more costly problems; need to reconsider this application at a later date with up to date and pertinent information.

Comment: The comments received from Ms. Miller have been forwarded on to Dave Hayman, biologist from Biologics Inc. to be answered.

Financial Implications:

As identified by the Manager of Operations and Community Services, Gray Line, west of Furnival Road and Havens Lake Road are currently included in West Elgin's 'No Winter Maintenance' by-law. This would need to be amended so these sections would be serviced year-round. Additional maintenance expense would be relatively low as it would only add approximately 750 metres of roadway to the winter maintenance program.

The proposed development will ultimately take the form of a condominium and not individual freehold ownership through a traditional draft plan of subdivision. As such, a legally binding municipal responsibility agreement will be required between the Municipality of West Elgin and the owner (namely the condominium corporation), along with the provision of sufficient financial assurance, so that the Municipality will take over operation of the sewage collection and treatment systems (sanitary and storm) in the event of default by the condominium corporation. The owner will be the condominium corporation, not the supplier of the wastewater treatment facility. Should this development not proceed by plan of condominium, but rather by draft plan of subdivision, through individual freehold ownership, the sewage collection and treatment systems both for sanitary sewage and stormwater must be fully municipally owned and operated into perpetuity.

Policies/Legislation:

Provincial Policy Statement 2020

Under Section 3(5) of the *Planning Act*, the Municipality "shall be consistent with" matters of provincial interest as set out in the Provincial Policy Statements (PPS). Section 1.1.1 Healthy Liveable and Safe Communities, Section 1.1.3 Settlement Areas, Section 1.6.6 Sewage, Water and Stormwater, Section 2.1 Natural Heritage, Section 2.6 Cultural Heritage and Archaeology and Section 3.1 Natural Hazard policies were reviewed.

Comment: Section 1.1.1 healthy liveable and safe communities require development to occur in a manner that is sustainable for the long-term, with efficient use of infrastructure and resources and does not compromise the environment and public health and safety. Section 1.1.1 policy has been met.

Section 1.1.3 Settlement Areas states the focus of growth and development is to occur in settlement areas such as urban areas and rural settlement areas. The subject lands are located within the Lakeshore Area and the Port Glasgow Secondary Plan of the Municipality of West Elgin Official Plan which is designated for residential, commercial, and open space development. Section 1.1.3 policy has been met.

Section 1.6.6 Sewage, Water and Stormwater states full municipal services are the preferred form of servicing for settlement areas. Based on the recommendations from the Municipal Class Environmental Assessment, the Environmental Study Report identifies the development will be serviced with municipal water from a proposed watermain that will be constructed along Gray Line and then will utilize a privately piped water system within the development and a private sewage treatment plant. Stormwater management will consist of Low Impact Development (LID) stormwater management measures combined with decentralized stormwater management facilities for water quantity and quality and erosion control. Section 1.6.6 policy has been met.

Section 2.1 Natural Heritage, particularly Section 2.1.5 states development and site alteration shall not be permitted significant woodlands unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions. An Environmental Impact Study (E.I.S.) was prepared by Biologics Incorporated (Environmental Planners). The E.I.S. demonstrated there will be no negative impact to the woodlands as all protected habitats are outside of the unit blocks on the tableland and no development is proposed in these areas. Based upon the submitted and revised E.I.S., Section 2.1, particularly Section 2.1.5 policies have been met.

Section 2.6 Cultural Heritage and Archaeology states that development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved. Multiple archaeological assessments have been prepared by Mayer Heritage Consultants Inc. spanning from 2008 to 2013 with stages 1 to 4 being addressed and ultimately, there are no outstanding cultural heritage and archaeology concerns. Section 2.6 policy has been met.

Lastly, Section 3.1 Natural Hazards states development shall generally be directed outside of hazardous lands adjacent to the shorelines of the Great Lakes – St. Lawrence River System, which is impacted by erosion hazards. A Geotechnical Assessment has been prepared by Golder and Associates Ltd.. Based on the Ministry of Natural Resources Slope Stability Rating Score, geotechnical assessment indicates the lakeshore bluff, gully and creek valley walls on Part Lot 6 have a low potential for instability. The assessment recommends continued geotechnical input be required throughout the various stages of site development. Additional site specific detailed geotechnical investigations will be required for any major infrastructure that will be constructed. Lower Thames Valley Conservation Authority has also provided comments regarding Block 12 due to the Lake Erie shoreline area and ravine system being completely within their regulated area and are of the opinion that development on this block would not meet Section 3.1. At this time, the Authority has requested a Holding provision be added to the zoning by-law for this block until the Authority and the owner can come to an agreement on the regulatory requirements for this area. A Holding provision

is recommended and has been added to the proposed zoning by-law amendment for Block 12. Section 3.1 policy has been met.

Conclusion: The proposed draft plan of subdivision and zoning by-law amendment applications are consistent with the PPS.

County of Elgin Official Plan

The subject lands are designated Agricultural Area with Woodland overlay. Section C2.2 Agricultural Area - Location recognizes there are lands outside of settlement areas that have been designated for non-agricultural development by the lower tier Official Plans and therefore, are deemed not be within the prime agricultural area and are instead subject to the applicable policies of this Plan and the policies of the lower tier Official Plan.

Section D1.2.2.1 Significant Woodlands, Section D1.2.6 Development and Site Alteration and Section D1.2.7 Adjacent Lands address development within and adjacent to Significant Woodlands.

Section E1.2.2 Subdivision Review Criteria states County Council and local Municipal Councils will evaluate applications for plans of subdivision or condominium on the basis of the requirements of the Planning Act as well as criteria including, but not limited to, the following:

- a) the plan is generally consistent with the objectives and policies of this Plan and conforms with the local Official Plan;
- b) the outcome of and recommendations of the Settlement Area Capabilities Study, as set out in B2.7;
- c) there is capacity available in the municipal water and sewage treatment systems, as applicable, and there is suitable provision for roads, water, storm and sanitary sewers, waste disposal, recyclable collection, public utilities, fire and police protection, parks, schools, and other community facilities;
- d) in areas without full municipal services, the plan can be serviced with an appropriate water supply and means of sewage disposal, provided there is confirmation of sufficient *reserve sewage system capacity* and *reserve water system capacity*, as the case may be; and
- e) as determined through supporting studies, as may be required under Section F8.3, the plan is designed to reduce or mitigate any negative effect on surrounding land uses, including but not limited to the transportation network, *significant natural heritage features and areas*, and surface and ground water; and,
- f) the plan is designed to be integrated with adjacent neighbourhoods and development.

Comment: The subject lands are designated Agricultural Area; however, they are designated Lakeshore Area in the Municipality of West Elgin Official Plan. It is my understanding the County intends to correct this discrepancy during the 5-year review of the County Official Plan. In the interim, the subject lands have been reviewed under Section C2.2 and meet the policy criteria.

The proposed draft plan of subdivision has been reviewed using the criteria of Section 1.2.2 noted above and meet the policy criteria.

The E.I.S. prepared for the proposed development demonstrates there will be no negative impact on the significant features and function of the woodlands and therefore the proposed development will conform to Sections D1.2.2.1., D1.2.6 and D1.2.7.

Conclusion: The proposed draft plan of subdivision and zoning by-law amendment applications conform to the County of Elgin Official Plan.

Municipality of West Elgin Official Plan

The subject lands are designated as Lakeshore Area with Woodlands and Hazardous Lands overlays in the Municipality of West Elgin Official Plan.

Section 3.3.7 Natural Heritage – Woodlands, ANSI's and Valleylands states development is permitted where it has been demonstrated that there will be no negative impact on the natural feature or on its ecological functions.

Section 3.4.5 Stormwater Management policies require studies for undeveloped areas prior to development to minimize stormwater runoff and contaminant loads as well as to maintain or enhance vegetative and pervious surfaces. Such studies shall be prepared, where appropriate to do so, on a sub-watershed basis as opposed to a land ownership basis. Stormwater Management facilities shall not be permitted in provincially significant wetlands. In the preparation and evaluation of such studies, the Lower Thames Valley Conservation Authority shall be consulted. All design parameters for stormwater management shall be approved by the Municipality, the Ministry of Environment, and the Lower Thames Valley Conservation Authority. A certificate of approval shall be required from the Ministry prior to construction.

Section 8.0 Infrastructure addresses roads, water supply system, sanitary sewage systems and stormwater management.

Section 9.1.3 Hazardous Lands – Uses, Buildings and Structures states within Hazardous Land areas, the use of land shall be governed by the policies applying to the underlying land use designation. No buildings or structures shall be permitted, and no building permit shall be issued by the Municipality without written approval of the Lower Thames Valley Conservation Authority.

Section 10.3 Plans of Subdivision/Condominium state a recommendation for approval by the Municipality to the approval authority for a plan of subdivision or plan of condominium shall be subject to the following criteria being satisfied:

- a) the applicable land use designation and policies of this Plan,
- b) the requirements of the Planning Act,
- c) consistency with the Provincial Policy Statement,
- d) the entering into of a subdivider's/ condominium agreement with the Municipality, and
- e) the posting of sufficient financial security to ensure the protection of the Municipality.

Comment: The Lakeshore Area policy permits seasonal residential and year-round residential development, campgrounds and trailer parks, golf courses, marina facilities, tourist retail and service establishments, parks, and conservation areas.

The E.I.S. prepared for the proposed draft plan of subdivision provides a series of recommendations to be implemented during the construction and post-construction periods to protect and preserve the natural heritage features on the property. Section 3.3.7 policy has been met.

Infrastructure requirements will be addressed as per the recommendations from the Environmental Study Report and during the development of the subdivision agreement between the owner and the Municipality. Section 8.0 policy has been met.

Hazardous lands have been addressed through the geotechnical assessment (and continued geotechnical input be required throughout the various stages of site development) and proposed Holding provisions in the zoning by-law amendment. The requirement for approval from the Authority in the form of a permit will be included as a condition of draft plan approval. Section 91.3 policy has been met.

The criteria for Section 10.3 have been reviewed and the criteria have been met.

Conclusion: The proposed draft plan of subdivision and zoning by-law amendment applications conform to the Municipality of West Elgin Official Plan.

Municipality of West Elgin - Port Glasgow Secondary Plan

The subject lands are also part of the Port Glasgow Secondary Plan, which designates the subject lands as Residential, Commercial, Mixed Use, Parks and Open Space, Woodlands, Hazardous Lands and Protected Natural Corridor.

Comment: The uses proposed for the blocks on the proposed draft plan of subdivision comply with the designations on the secondary plan.

Conclusion: The proposed draft plan of subdivision and zoning by-law amendment applications conform to the Municipality of West Elgin – Port Glasgow Secondary Plan.

Municipality of West Elgin Zoning By-law Comprehensive Zoning By-law 2015-36

The subject lands are zoned Lakeshore Development (LD) with a portion of the lands subject to Lower Thames Valley Conservation Authority Regulated Areas and a portion below the Lake Erie Shoreline Regulated Area, as shown on Schedule “G” Port Glasgow in the Zoning By-law.

The proposed zoning by-law amendment will rezone the subject lands from Lakeshore Development (LD) to the following site-specific zones:

- Site-Specific Residential First Density Holding (R1-7-H-1) Zone to permit single detached dwellings with a site-specific provision pertaining to private development and a Holding provision
- Site-Specific Residential Third Density Holding (R3-2-H-1) to permit townhouse dwelling and multiple unit dwelling with a site-specific provision pertaining to private development and a Holding provision
- Site-Specific Tourist Commercial Holding (TC-1-H-3) to permit tourist commercial uses with a site-specific provision pertaining to private development and a Holding provision
- Site-Specific Open Space Holding (OS-5-H-3) to only permit conservation use and a Holding provision
- Site-Specific Open Space Holding (OS-6-H-3) to only permit sewage treatment plant, conservation area, and private park with a site-specific provision pertaining to private development and a Holding provision
- Site-Specific Open Space Holding (OS-7-H-3) to only permit conservation area and private park with a site-specific provision pertaining to private development and a Holding provision.

The lands may be developed or used on public or private roads in accordance with Section 4.8 of the By-law and may be serviced by private piped water system and private sanitary sewage system.

The H-1 and H-3 are already existing in the Zoning By-law as Section 3.3 a) Holding Symbols – H-1 Residential Zones and Section 3.3 c) Holding Symbols – H-3 Other Zones:

H-1 Residential Zones

Applies to parcels of undeveloped lands zoned for residential purposes (e.g. R1, HR) in settlement areas as shown on Schedule “B” through Schedule “G” inclusive. Removal of the H-1 symbol contingent on the owner entering into a subdivider’s or similar agreement with the Municipality to address the installation of services, the construction of roads and other developer obligations and responsibilities.

H-3 Other Zones

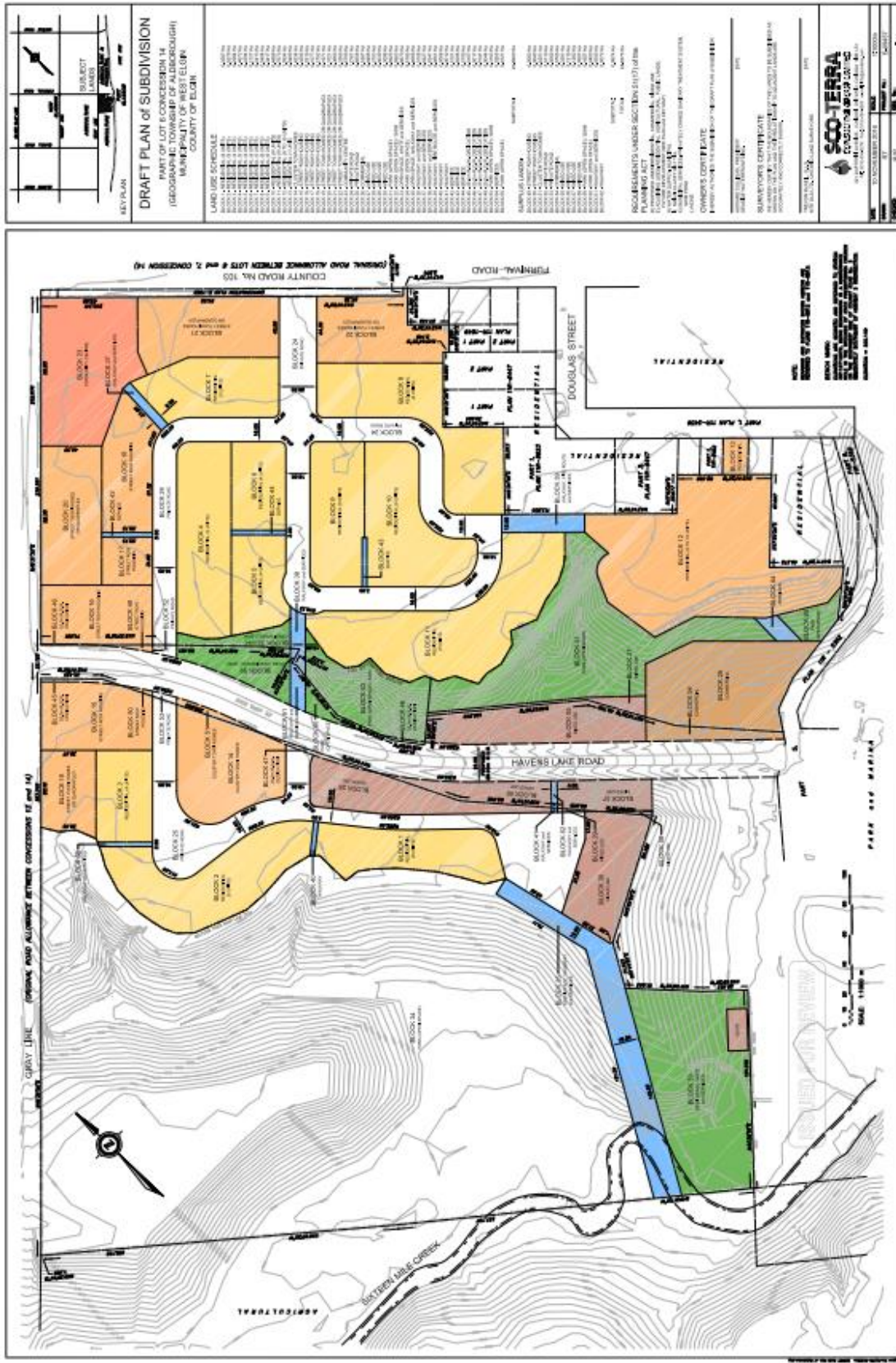
Applies to parcels of undeveloped lands where a site plan agreement is considered necessary to ensure orderly and appropriate development. Removal of the H-3 symbol contingent upon the owner entering into a site plan agreement with the Municipality in accordance with the provisions of the Planning Act.

Comment: It is recommended that Council consider providing a first and second reading of the By-law to amend the Zoning By-law, subject to the information presented above and that a third reading of the By-law be considered after the Plan of Subdivision has received draft plan approval

Key Map



Proposed Draft Plan of Subdivision



Report Approval Details

Document Title:	Draft Plan of Subdivision and Zoning By-law Amendment Seaside Waterfronts Inc - 2020-33-Planning.docx
Attachments:	<ul style="list-style-type: none">- Public Comments.pdf- 2020-xx - Seaside Zoning By-law Amendment.docx- Zoning Schedule - Seaside.pdf
Final Approval Date:	Nov 20, 2020

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

Jana Nethercott