



REPORT - Revised

REPORT TO: Mayor Bonnette and Members of Council

REPORT FROM: Jeff Markowiak, Director of Development Review
Kevin Okimi, Director of Parks & Open Space

DATE: March 18, 2021

REPORT NO.: PD-2021-0009 (Revised)

RE: Retention of a private easement over open space lands to be dedicated to the Town through registration of the Eden Oak subdivision (The Chase) which would facilitate a sanitary connection to a remnant parcel (106 Park St. East)(Glen Williams)

RECOMMENDATION:

THAT Report No. PD-2021-0009 (Revised), dated March 18, 2021, regarding the “Retention of a private easement over open space lands to be dedicated to the Town through registration of the Eden Oak subdivision (The Chase) which would facilitate a sanitary connection to a remnant parcel (106 Park St. East)(Glen Williams)”, be received;

AND FURTHER THAT Council authorize the retention of a permanent easement over part of Block 34 in favour of Eden Oak in order to grant subsurface rights to connect the remnant parcel located at 106 Park Street East to the Halton Region municipal sanitary sewer system in a form satisfactory to the Town;

AND FURTHER THAT Council authorize Town staff, together with the Town Solicitor, to advise the Local Planning Appeal Tribunal (LPAT) that the Town is agreeable to the conveyance of part of Block 34 being subject to the private servicing easement, in a form satisfactory to the Town, with a corresponding modification to conveyance condition, being Condition 8 to the Conditions of Draft Plan Approval, together with taking all steps at the LPAT as may be necessary to obtain such modification.

REVISED REPORT:

Report PD-2021-0009 was originally considered at the March 1, 2021, Council meeting where it was deferred by Council to the March 22, 2021 meeting. The report has since been revised to provide additional information in response to questions and concerns raised at the March 1st meeting. The additional information can be found under the “COMMENTS” section of this report.

BACKGROUND:

In 2017 the Ontario Municipal Board (OMB) issued a decision granting Draft Plan of Subdivision approval for the Eden Oak development referred to as the “Creditview Heights” or “The Chase” subdivision. The draft plan approval was for 31 single detached residential lots fronting onto an extension of Gamble Street and a new court (J.D. Robson Court) as well as a stormwater block and two open space blocks that would be dedicated to the Town at the time of registration of the subdivision.

Eden Oak is close to satisfying all 114 conditions of the OMB’s Draft Plan of Subdivision approval, which will allow for registration of the subdivision to occur. Following registration, a remnant (left over) parcel of land will be created with frontage onto Park Street East. Once created, this remnant parcel, municipally referred to as 106 Park Street East, will have a lot frontage of 20.0 metres (65.0 ft.) and lot area of 0.17 hectares (0.42 acres); see SCHEDULE 1 – LOCATION MAP and SCHEDULE 2 – DRAFT PLAN OF SUBDIVISION WITH REMNANT PARCEL.

On February 3, 2021, the Committee of Adjustment approved a Minor Variance application (File No. D13VAR21.001H) submitted by Eden Oak for 106 Park St. East to recognize that:

- the existing 20.0 m (65.0 ft.) lot frontage for the parcel is less than the 30.0 m (98.0 ft.) permitted under the Zoning By-law; and
- the 0.17 ha (0.42 ac.) lot area for the parcel is less than the minimum 0.20 ha (0.5 ac.) permitted under the Zoning By-law.

The approval of the two variances recognizes the remnant parcel as a buildable lot, which will allow for the construction of a new single detached home (subject to finalized site plan and building elevation drawings being submitted to the satisfaction of Town staff). As part of the Minor Variance application Eden Oak indicated their intention to connect the new home they construct on the remnant parcel to the municipal sanitary system being installed for their 31 lot residential subdivision (the lot already has access to the municipal water infrastructure under the Park St. East right-of-way). As such, the Committee of Adjustment made their approval of the minor variances conditional upon obtaining such connection.

The sanitary/wastewater system for the Eden Oak subdivision is being installed under the Gamble Street and J.B. Robson Court rights-of-way. To provide a connection to 106 Park Street East a pipe will need to be installed from J.B. Robson Court through one of the open space blocks to be dedicated to the Town following registration (Block 34). The installation of the sewer connection will require the retention of a permanent easement over part of Block 34 in favour of Eden Oak. However, Condition 8 of the Draft Plan of Subdivision approval requires that all blocks conveyed to the Town be free and clear of any encumbrances (which includes any easements).

Draft Plan of Subdivision approval was issued by the OMB, with the clearance of conditions and granting of final approval being returned to the Town as the approval

authority. In its Order, the OMB advised that it “may be spoken to in the event that there are any difficulties implementing any of the conditions of draft plan approval or if any changes are required to be made to the draft plan”. As such, the OMB (now the Local Planning Appeal Tribunal (LPAT)) retained jurisdiction to deal with matters that arise such as this one. The Town Solicitor anticipates that the Tribunal will deal with this matter administratively; however, if the matter becomes involved, then it is anticipated that Eden Oak will bear the weight of dealing with the issues, as opposed to the Town.

As such, this report seeks Council’s authorization to accept the conveyance of Block 34 to the Town with the retention of a private servicing easement in favour of Eden Oak to connect 106 Park Street East to the Regional sanitary system. And for staff and the Town Solicitor to advise LPAT that the Town is agreeable to a corresponding modification of Condition 8 of the Draft Plan Approval, together with taking all steps at the LPAT as may be necessary to obtain such modification.

COMMENTS:

Town staff supports the retention of the easement over Block 34 in favour of Eden Oak to facilitate the connection of 106 Park Street East to the Regional sanitary/wastewater system for the following reasons:

1. The Town’s Official Plan supports the connection of lots to full municipal services. Section H4.3.5 of the Glen Williams Secondary Plan identifies:
 - unless otherwise provided for . . . all new development shall only proceed on the basis of connection to the Regional sanitary sewage system.
 - extension of the Regional wastewater servicing system to existing development areas within the Hamlet may be approved by the Region of Halton when it is determined to be feasible and prudent due to public health or environmental concerns.
2. No surface disturbance or impact will occur within the future Town open space block.
 - the easement in favour of Eden Oak will be for subsurface rights only; no surface disturbance will be allowed (except in extenuating circumstances with prior approval of Town staff).
 - all works associated with the installation of the sanitary connection will be completed via trenchless technology (ie. directional drilling without disturbing the ground surface).
 - no impact to trees within the future Town owned open space block should occur.
3. The installation of the infrastructure will have no cost to the Town.
 - all works (current and future) will be installed at the cost of the Developer/future homeowner.
 - the future owner of the remnant lot will be obligated to maintain/repair the line to ensure no future impacts to Town lands.

4. the granting of this easement would be consistent with the Town principles regarding the “Sale of Open Space Land’s Policy”.

The granting of easements over Town owned lands is permitted under the Town’s Disposition of Land By-law 2007-0109. The easement would be registered on title to the future Town open space block (Block 34) and the remnant parcel (106 Park Street East). In other words, the Town would accept the conveyance of Block 34 subject to the easement being retained by Eden Oak. Should Council authorize the retention of the easement by Eden Oak, Eden Oak will still need to obtain the necessary permits from the Region of Halton to connect the remnant parcel to the municipal sanitary/wastewater system. Regional staff have confirmed they do not have any fundamental concerns with the remnant parcel connecting to the municipal sanitary system based on the preliminary servicing and easement drawings they have reviewed.

The following additional information is provided in response to the questions and concerns raised at, and subsequent to, the March 1, 2021, Council meeting:

Backup Generator for Pump System:

Concerns were raised that the grinder and pumping system required to connect the new dwelling at 106 Park Street to the municipal sanitary system installed for the Eden Oak subdivision may fail during a power outage causing odor and sanitary issues for adjacent homeowners.

Eden Oak has confirmed that they intend to install a 10kw capacity backup generator for the dwelling to supply power to the pumping system in the event that any power-outages impact the home. This should ensure that the grinder and pumping system continue to function.

Credit Valley Conservation Review of Proposal:

It had been questioned whether CVC staff had an opportunity to evaluate and comment on the changes in grading and proposed sanitary connection required to construct a dwelling on the remnant parcel.

CVC staff provided an e-mail on March 16th confirming that they have reviewed the preliminary lot grading and servicing plans for the parcel and do not have any fundamental concerns with the proposed construction of a house. They clarified that a CVC Permit is still required for the proposed dwelling, retaining walls and installation of the sanitary pipe. A more detailed review of these items, including the valley slope, will be explored through the CVC Permit review, which will occur once Eden Oak initiates the process. Any concerns identified at that time must be addressed to the satisfaction of the CVC prior to any CVC Permit or Building Permit being issued. The CVC also confirmed that Town staff are responsible for the review of any external drainage impacts as part of the Building Permit process.

Grading and Draining Concerns:

The adjacent property owners had indicated there are number of drainage issues that currently affect the subject parcel and their properties. They are concerned that the redevelopment of the remnant parcel will exacerbate these issues and cause more runoff water to be directed to their properties.

Town Engineering staff have indicated they have completed a sufficient review of the proposal and preliminary drawings to be comfortable that the identified concerns can effectively be managed and that there are viable options to ensure that surface runoff will be directed to the street. However, through both the Building Permit and required Site Alteration Permit review processes more detailed drawings must be provided to illustrate how this will occur. Until Town staff approve a final grading plan that demonstrates an appropriate solution neither permit will be issued. The Town's Site Alteration By-law also governs the construction process and any subsequent alterations a future homeowner may seek to make that could impact the approved plans and surface drainage on-site.

What Happens if House Cannot Connect to Sanitary System:

For whatever reason, if the dwelling proposed for 106 Park Street East cannot connect to the municipal sanitary system Eden Oak will not be able to satisfy the Committee of Adjustment's approval of their Minor Variance application, which was granted conditional upon the Owner obtaining a servicing connection to the Regional sanitary/wastewater system.

Provided Eden Oak can satisfy the requirements under the *Building Code Act*, it is possible that a dwelling could be built at 106 Park St. East on a private septic system. However, to construct the house on a private septic system Eden Oak would have to file a new Minor Variance application and request that the Committee of Adjustment once again grant them approval, but this time without the condition that they connect the dwelling to the Regional sanitary/wastewater system. Should the Committee refuse, the Applicant would need to appeal the Committee's decision to the Local Planning Appeal Tribunal (LPAT) for a decision.

Alignment of the House:

Concern was raised that the grading and servicing requirements for the dwelling at 106 Park Street will force the house to be set much closer to the street than the dwellings located on the two adjacent properties (102 & 108 Park Street East).

The Committee of Adjustment decision was made conditional upon any dwelling constructed on the lot being situated generally in accordance with the footprint shown on the site plan drawing prepared by Eden Oak, which places the house in alignment with the abutting homes; see SCHEDULE 3 – 106 PARK ST. PRELIMINARY SITE PLAN. Should the grading and servicing requirements substantially affect the placement of the house, Eden Oak will not be able to satisfy the Committee of

Adjustment's approval. Similar to the sanitary condition outlined above, if Eden Oak cannot satisfy this condition they would need to file a new Minor Variance application.

RELATIONSHIP TO STRATEGIC PLAN:

The content of this report is not directly related to the Corporate Strategic Plan.

FINANCIAL IMPACT:

There is no financial impact associated with this report.

CONSULTATION:

Planning and Recreation & Parks staff has consulted with the appropriate Town departments and the Town Solicitor in the preparation of this Report.

PUBLIC ENGAGEMENT:

The Minor Variance application for 106 Park Street East was considered by the Committee of Adjustment at its February 3, 2021 meeting. Notice of the Minor Variance application was mailed out to all property owners within 65 metres of the subject property. Approximately 20 members of the public attended the February 3rd meeting, during which Eden Oak's stated intention to connect the remnant parcel to the Regional sanitary sewer system was discussed.

Under the Town's Disposition of Land By-law 2007-0109 no public notice is required in regard to the granting of easements.

SUSTAINABILITY IMPLICATIONS:

The Town is committed to implementing our Community Sustainability Strategy, Imagine Halton Hills. Doing so will lead to a higher quality of life.

The recommendations outlined in this report is not applicable the Strategy's implementation.

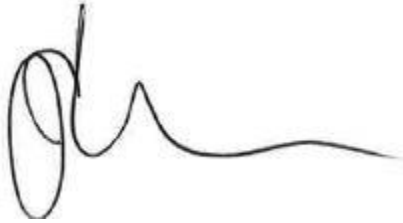
COMMUNICATIONS:

Under the Town's Disposition of Land By-law 2007-0109, public notice regarding Council's granting of easements over Town owned land is not required.

CONCLUSION:

Town staff are recommending that Council authorize the retention of a permanent easement over part of Block 34 of The Chase subdivision in favour of Eden Oak in order to grant subsurface rights to connect the remnant parcel located at 106 Park Street East to the Halton Region municipal sanitary sewer system.

Reviewed and Approved by,

A handwritten signature in black ink, appearing to be 'John Linhardt', written in a cursive style.

John Linhardt, Commissioner of Planning and Development

A handwritten signature in black ink, appearing to be 'Chris Mills', written in a cursive style.

Chris Mills, Acting Chief Administrative Officer