

# Municipality of Lakeshore - Report to Council

## Community & Development Services

### Development Services



**To:** Mayor & Members of Council

**From:** Aaron Hair, Interim Manager of Planning

**Date:** June 4, 2021

**Subject:** Draft Plan of Condominium S-A-02-2020 – King Homes & Developments

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### Recommendation

Direct Administration to notify the County of Essex that the Municipality of Lakeshore supports the draft plan approval for the King Homes & Developments condominium as described in the report “Draft Plan of Condominium S-A-02-2020 – King Homes & Developments” from the Interim Manager of Planning presented at the June 22, 2021 Council meeting;

Direct Administration to forward the comments from the public meeting to the County of Essex;

Direct the Clerk to read By-law 51-2021 to remove the holding provision from the subject property during the “Consideration of the By-laws”; and

Delegate Site Plan Approval authority to the Director of Community and Development Services for SPC-13-2020.

### Background

On April 06, 2021 Council Held a Public Meeting (Appendix A – Meeting Minutes) for zoning by-law amendment (ZBA-15-2020) and draft plan of condominium (County File No. 37-CD-20004). At the public meeting the adjacent property owner, raised the following concerns regarding the proposed development;

- With the proposed development being only 5ft away, that there may be additional rain water that drains onto his property, asked if a retaining wall or other mechanism can be put in place to address this.
  - o *Response:* The developer will be installing a drainage swale between the two properties that will direct the water to the river and to the road.
- Concern with the loss of privacy and the potential for trespassing. Requested a wrought iron fence or privacy fence to be installed.

- *Response:* Administration has reviewed the fence by-law and discussed this with the Municipality's Chief Building Official and a 4ft wrought iron or wood fence could be supported in this location, if Council chooses to impose this as a condition of approval.

In the previous planning report for the zoning change, presented at the April 6, 2021 Council meeting, it was stated:

*".. based on EIS Review, the additional flows from this development would be a negligible increase when compared to the flows of the existing development on the site. With that being said, Administration is recommending a holding provision which would require the applicant the ability to enter into an agreement with the Municipality for an interim sanitary solution, if required."*

At the April 6 Council meeting a holding provision was placed on the subject property, which was to be removed once the applicant enters into a Site Plan Agreement. The Holding Provision requires the applicant to enter into a site plan agreement with the Municipality, and that an Interim Sanitary Solution be available before the holding can be removed.

It has since been determined that an interim sanitary solution is not required for the proposed development.

In discussions with the County of Essex, and the applicant a combined Site Plan and Condominium Agreement can be prepared instead of two separate agreements. Due to the nature of the built form (stacked Town Homes) the full range of conditions required by a typical subdivision (construction of roads and phasing, for example) are not required. Therefore the requirements of both a condominium and site plan agreement can be combined into one site plan agreement. In order for this to be completed the holding provision will need to be removed or amended. It should be noted that as per the Site Plan Control By-law this type of development is subject to Site Plan Control, so regardless of a holding provision, site plan approval is required before a building permit can be issued, and the intent of the holding provisions can be included into the site plan control agreement.

The proposed site plan affects two properties (which are consolidated) located at the intersection of County Road 22 and Puce Road, as shown on the Key Map (Appendix B), in the Community of Maidstone. The applicant wishes to construct a 12 unit stacked town house and two detached garages. The proposed stacked townhouse will consist of 6 units on the ground level, with 6 units on the second storey (Appendix C).

Subject Land <i>Note: In December 2020 the proponent started the process to consolidate the property PIN's</i>	Lot Area - 4,350m <sup>2</sup> (1.07acres) Existing Use – residential – single detached dwellings Proposed Use – stacked townhouse dwellings (12 units) Access – access off of East Puce River Road Services – municipal water, municipal sewage system
Neighbouring Land Uses	North – Single Detached Dwellings East – Single Detached and Commercial (Gas Station)

	South – Single Detached Dwellings & Public Utility West – Puce River and Single Detached Dwellings
Official Plan	Mixed Use, Floodplain, and Limit of Regulated Area (ERCA)
Existing Zoning	Mixed Use Zone Exception 36

## Comments

### Provincial Policy Statement (PPS), County Official Plan and Lakeshore Official Plan

There are no issues of Provincial, County or municipal significance raised by this application.

The PPS, issued under Section 3 of the *Planning Act* provides policy direction on matters of provincial interest related to land use planning. All planning applications are required to be consistent with applicable policies. The applicable PPS policies are found in: 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns; 1.6 Infrastructure and Public Service Facilities; 2.1 Natural Heritage; 2.6 Cultural Heritage and Archaeology; and 3.0 Protecting Health and Safety.

This application promotes the development of healthy, livable and safe communities, and the efficient use of land and infrastructure through higher densities, mix of housing types, infill and intensification. Section 1.1.3.1 of the PPS states that settlement areas are to be the focus of growth. The site is within a settlement area, as designated in the County of Essex Official Plan and Municipality of Lakeshore Official Plan. The site is further designated 'Mixed Use' in the Municipality of Lakeshore Official Plan which promotes a variety of housing types to meet the demands and characteristics of the population. Medium residential land uses are permitted in the Residential designation, including townhouse dwellings subject to Section 6.6.1 b) of the Official Plan:

b) Medium density residential uses will be permitted including triplex dwellings, fourplex dwellings, row or block townhouse dwellings, converted dwellings containing more than two dwelling units, walk-up apartments and similar medium profile residential buildings, subject to the following criteria:

i) the density, height and character of the development will be compatible with adjacent uses;

ii) the height and massing of the buildings at the edge of the medium density residential development will have regard to the height and massing of the buildings in any adjacent low density residential area and may be subject to additional setbacks, or landscaping to provide an appropriate transition;

iii) the development will be encouraged to have direct access to an arterial or collector road, where possible and appropriate;

- iv) the watermains and sanitary sewers will be capable of accommodating the development, or the proponent will commit to extending services at no cost to the Town, save and except where private septic systems will be permitted;
- v) the development is adequately serviced by parks and school facilities;
- vi) the development will be designed and landscaped, and buffering will be provided to ensure that the visual impact of the development on adjacent uses is minimized;
- vii) all required parking will be provided on the site, and cash-in-lieu of required parking in accordance with the policies of Section 7.2.2.2 of this Plan, will not be needed by the Town;
- viii) in developments incorporating walk-up apartments, block townhouse dwellings and similar medium profile residential buildings, on-site recreational facilities or amenities such as private open space or playground equipment may be required;
- ix) except for a triplex dwelling, fourplex dwelling or other similar small scale developments, a report on the adequacy of the road network to accommodate the expected traffic flows and the adequacy of water and sewer services may be required to be prepared by the proponent and approved by the Town; and
- x) triplexes, fourplexes, freehold street townhouses or other similar small scale developments, may be subject to site plan control, in accordance with the policies of Section 8.3.4 of this Plan.

The subject lands are subject to Section 2.6 Cultural Heritage and Archaeology of the PPS. The subject lands are not designated under the *Heritage Act*, or listed in the Municipality of Lakeshore Municipal Register, nor are any adjacent properties. A Stage 1 Archaeology study has been prepared. Documentation from the Ministry of Tourism, Culture and Sport that the Archaeological report has been accepted into the Ontario Public Register of Archaeological reports was provided to the Municipality and according to the Ministry: “The Stage 1 and 2 Archaeological Assessment did not result in the identification of any archaeological sites and as such, no further archaeological assessments are recommended for the Study Area.”

Section 3.0 of the PPS speaks to Protecting Public Health and Safety. The subject lands are located within a Floodplain and are within the Conservation Authorities Limit of Regulated Area. Permits are required from the Conservation Authority prior to development in regulated areas. ERCA advises that the subject lands are subject to ERCA Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the *Conservation Authorities Act* (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the Puce River and East Puce River Rd Drain West Side. The property owner will be **required to obtain a Permit** from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the *Conservation Authorities Act*.

### Noise and vibration

A Noise & Vibration report prepared by Valcoustics Canada Ltd. dated October 14, 2020 was completed for the proposed development due to the proximity to the rail line. VIA Rail has reviewed the report and has indicated that they run an additional two trains a day above what was contemplated in the assessment and requested that Valcoustic to review their calculations using the additional trains. VIA Rail has also requested that the following clause be inserted into future purchase agreements or leases.

*"Warning: VIA Rail Canada Inc. or its assigns or successors in interest has or have a right-of-way within 300 metres from the land the subject hereof: There may be alterations to or expansions of the rail facilities on such right-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). VIA will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid right-of-way."*

*Note: The recalculation to include the additional trains can be finalized prior to the site plan being approved, and a site plan agreement being executed. The requirement to advise future inhabitants of the VIA Rail warning can be included in the site plan agreement.*

The requirement to include this notice into the agreement of purchase and sale can be included into the provisions of the condominium/site plan agreement.

### Zoning By-law

A site specific mixed use zone was created and approved for this development at the April 6, 2021 Council meeting.

### Official Plan

The Official Plan identifies the subject property for future mixed use development, therefore rezoning the subject land to mixed use would be consistent with the Official Plan's direction.

### Concerns from Public Consultation

In October 2020 administration notified adjacent properties of the proposed development and requested comments or concerns to be returned to the Municipality. These comments were summarized and shared with the applicant.

These comments focussed around the following topics:

- Parking – will all the parking be onsite.
- Traffic – will the amount of units create traffic safety i.e. will vehicles be backing out of the driveway onto Puce Road.
- Stormwater Management/Drainage – with all the additional hard surfacing will that negatively impact adjacent properties.

- Sanitary capacity – can the sewers handle the additional capacity, as surcharging currently occurs.
- Privacy & enjoyment – will the number of units impact the surrounding neighbours' privacy and enjoyment of their property.

The applicant has advised that he has had conversations with the surrounding landowners and he believes their concerns have been addressed, where appropriate to do so.

The applicant has had a new break-wall installed on the Puce River which will address some of the existing drainage issues. The onsite parking is designed so vehicles can enter and exit the property in a forward motion. The applicant is proposing to locate the AC units away from adjacent dwellings to reduce noise impacts.

### Conclusion

Administration recommends Council direct Administration to notify the County of Essex that the Municipality of Lakeshore supports the draft plan approval for the King Homes & Developments condominium.

In addition and to avoid delays for the developer, administration recommends that Council remove the holding provision and delegate the decision making authority for this site plan approval to the Director of Community & Development Services. The applicant has requested delegation of site plan approval to Administration (Appendix D).

### **Others Consulted**

Notice for the Public Meeting was given to agencies and the general public as required under the provisions of the *Planning Act* and Regulations.

### **Financial Impacts**

There are no budget impacts resulting from the recommendation.

### Attachments:

Appendix A - Public Meeting Minutes

Appendix B - Key Plan

Appendix C - Site Plan & Elevations

Appendix D - Applicants request to have site plan approval delegated

## Report Approval Details

Document Title:	Draft Plan of Condominium S-A-02-2020 – King Homes and Developments.docx
Attachments:	<ul style="list-style-type: none"><li>- Appendix A - Public Meeting Minutes.pdf</li><li>- Appendix B - Key Plan.pdf</li><li>- Appendix C - Site Plan and Elevations.pdf</li><li>- Appendix D – Applicants request to have site plan approval delegated.pdf</li></ul>
Final Approval Date:	Jun 17, 2021

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

Tammie Ryall

Rosanna Pellerito

Kristen Newman

Truper McBride