

Staff Report

Report To: Committee of Adjustment
Report From: David Smith, Manager of Planning and Development
Meeting Date: April 1, 2025
Subject: B05.2025 and B06.2025 – 579575 Ontario Ltd o/a Candue Homes

Recommendations:

THAT in consideration of staff report B05.2025 – 579575 Ontario Ltd o/a Candue Homes, the Committee of Adjustment hereby grants provisional approval to consent application B05.2025 for the creation of a new lot as shown on Schedule 'A' attached to this decision and subject to the following conditions:

- i. That the owner provides a property tax certificate or, correspondence from the municipal finance department, indicating that all property taxes have been paid up-to-date with respect to the property that is subject to this decision;
- ii. THAT this decision applies only to the 'Severed Lot 1' as indicated on Schedule 'A' attached to and forming part of this decision. The severed lot shall substantially conform with Schedule 'A';
- iii. THAT a Reference Plan (survey that is registered) be completed and a digital and/or hard copy be filed with the Secretary-Treasurer of the Committee of Adjustment, or an exemption from the Reference Plan be received from the Registrar. A draft copy of the reference plan shall be provided to the Secretary-Treasurer for review and approval prior to registration of the survey;
- iv. THAT pursuant to Section 53(42) of the Planning Act, the 'Certificate of Consent' be affixed to the deed within two years of the giving of the Notice of Decision. (Note: Section 53(43) of the Planning Act requires that the transaction approved by this consent must be carried out within two years of the issuance of the certificate (i.e., Stamping of the deed));
- v. THAT the owner enters into a consent agreement, if required by the municipality, pursuant to Section 51(26) of the Planning Act, with the municipality to be registered on title, pertaining to the severed parcel, to the satisfaction of the municipality;

- vi. THAT the owner provides a draft transfer prepared by a solicitor describing the legal description of the new lot;
- vii. THAT the owner pay a \$500 parkland dedication fee for the severed land in accordance with Section 51(1) of the Planning Act to the Municipality of West Grey;
- viii. THAT the Clerk of the Municipality of West Grey provide written confirmation that a zoning bylaw amendment is in force and effect; and

THAT in consideration of staff report B06.2025 – 579575 Ontario Ltd o/a Candue Homes, the Committee of Adjustment hereby grants provisional approval to consent application B06.2025 for the creation of a new lot as shown on Schedule 'A' attached to this decision and subject to the following conditions:

- i. THAT the owner provides a property tax certificate or, correspondence from the West Grey finance department, indicating that all property taxes have been paid up-to-date with respect to the property that is subject to this decision;
- ii. THAT this decision applies only to the 'Severed Lot 2' as indicated on Schedule 'A' attached to and forming part of this decision. The severed lot shall substantially conform with Schedule 'A';
- iii. THAT a Reference Plan (survey that is registered) be completed and a digital and/or hard copy be filed with the Secretary-Treasurer of the Committee of Adjustment, or an exemption from the Reference Plan be received from the Registrar. A draft copy of the reference plan shall be provided to the Secretary-Treasurer for review and approval prior to registration of the survey;
- iv. THAT pursuant to Section 53(42) of the Planning Act, the 'Certificate of Consent' be affixed to the deed within two years of the giving of the Notice of Decision. (Note: Section 53(43) of the Planning Act requires that the transaction approved by this consent must be carried out within two years of the issuance of the certificate (i.e., Stamping of the deed));
- v. THAT the owner enters into a consent agreement, if required by the municipality, pursuant to Section 51(26) of the Planning Act, with the municipality to be registered on title, pertaining to the severed parcel, to the satisfaction of the municipality;
- vi. THAT the owner provides a draft transfer prepared by a solicitor describing the legal description of the new lot;
- vii. THAT the owner pays a \$500 parkland dedication fee for the severed land in accordance with Section 51(1) of the Planning Act to the Municipality of West Grey; and
- viii. THAT the Clerk of the Municipality of West Grey provide written confirmation that a zoning bylaw amendment is in force and effect.

Highlights:

- The purpose of the applications is to sever two lots (Severed Lot 1 approx. 432.7 sq.m.; Severed Lot 2 approx. 432.7 sq.m ha.) and retain approx. 806.7 sq.m.
- Municipal address: 461 Durham Road E.
- The lot is designated 'Primary Settlement Area' in the County of Grey Official Plan with 'Significant Woodlands' constraints feature on the lot.
- The property is zoned 'R1B Low Density Residential' and 'Floodline with Regulation limit'. And there is a Zoning Bylaw Amendment application on the same property.
- Grey County Planning Ecologist is of the opinion that an Environmental Impact Assessment is not required.

Previous Report/Authority:

None.

Analysis:

Comments – Agencies

West Grey Public Work: No concerns.

West Grey Building: The Building Department has no concern provided the applicant complies with article 9.14.6.1. The building shall be located or the building site graded so that water will not accumulate at or near the building and will not adversely affect adjacent properties.

West Grey Fire: No concerns.

County of Grey: County Ecologist is in the opinion that Environmental Impact Study can be waived. No planning concerns.

Saugeen Valley Conservation Authority: "... the regulatory flood limit does not impact this property. There are no hazard features affecting the property. The slope is stable at this location. It is recommended that both the Grey County OP and Zoning Bylaw mapping be updated to better reflect the SVCA mapping ... SVCA staff are in the opinion that the application is acceptable."

Comments – Public

No comments from the public have been received as of the date of writing this report.

Planning Act, R.S.O. 1990, as amended (Act)

In determining whether a provisional consent is to be given, the Committee of Adjustment shall have regard to matters under subsection 51(24) of the Planning Act:

53(12) Powers (Consents)

A council or the Minister in determining whether a provisional consent is to be given shall have regard to the matters under subsection 51(24) and has the same powers as the approval authority has under subsection 51(25) with respect to the approval of a plan of subdivision and subsections 51(26) and (27) and section 51.1 apply with necessary modifications to the granting of a provisional consent.
1994, c. 23, s. 32.

Subsection 51(24) of the Planning Act provides criteria to which regard shall be had such as:

In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2 of the Act;*
- b) whether the proposed subdivision is premature or in the public interest;*
- c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;*
- d) the suitability of the land for the purposes for which it is to be subdivided;*
- e) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;*
- f) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;*
- g) the dimensions and shapes of the proposed lots;*
- h) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;*
- i) conservation of natural resources and flood control;*
- j) the adequacy of utilities and municipal services;*
- k) the adequacy of school sites;*
- l) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;*
- m) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and*

- n) *the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area*

The term “shall have regard to” does not mean “absolute adherence to”.

The preamble to section 51(24) makes it clear that it is up to the approval authority, the West Grey Committee of Adjustment, to decide what is relevant to their decision.

Section 51(24) requires the Committee of Adjustment to have ‘regard’ for various matters, but it does not mandate ‘conformity’ with an official plan. As to ‘conformity’ with an official plan, the criteria list only requires that consideration be given to “whether” the consent conforms to the official plan and not that the consent must conform.

Source: Troister, S.H. LLB, KC, LSM (Ontario Law Society Medal]. 2022. The Law of Subdivision Control in Ontario 4th Edition. A Practical Guide to Section 50 of the Planning Act”. Thomson Reuter. Toronto, ON.

The Manager of Planning and Development has reviewed the above criteria and is of the opinion that the consents have regard to the matters under subsection 51(24) of the Act.

Provincial Planning Statement 2024 (PPS)

As of October 20, 2024, the new Provincial Planning Statement applies to all decisions in respect of the exercise of any authority that affects a planning matter.

Section 3(5) of the Planning Act requires that decisions affecting planning matters shall be consistent with policy statements issued under the Act.

The following PPS Policies were reviewed:

- i. Policy 2.1 Planning for People and Homes;
- ii. Policy 2.2 Housing;
- iii. Policy 2.3 Settlement Areas;
- iv. Policy 3.6 Sewage, Water and Stormwater;
- v. Policy 4.1 Natural Heritage and
- vi. Policy 5.2 Natural Hazard

The proposed lots are within an area designated and zoned for residential uses and are of a configuration/size/orientation that is in keeping with other residential properties in the area. The proposed lots provide expand the variety of housing options available and represent intensification utilizing existing municipal water and sewer services.

Lot grading plan provided indicates that front yards would be graded towards Durham Street East, the interior side lot will be graded into a swale with water directed to the rear with stormwater infiltration in the rear yard.

Durham Street East is of adequate construction to handle the additional residential units. There is currently no sidewalk at this end of Durham Street East.

A plan of subdivision is not necessary for the proper and orderly development of the lands as the consent process and the potential registration of a consent agreement against the lands addresses this requirement.

The Grey County Planning Ecologist is of the opinion that an EIS is not required in regard to Natural Heritage issues. The regulatory flood limit does not impact this property. There are no hazard features affecting the property. The slope is stable at this location. SVCA has no concerns regarding Natural Hazard.

The Manager of Planning and Development is of the opinion that the consents are consistent with the policies of the PPS.

Grey County Official Plan (Grey OP)

The lot is designated 'Primary Settlement Area'.

There is a 'Significant Woodland' constraint on the rear parts of both severed lots and the retained lot. There is no building development proposed within the 'Significant Woodland' although there may be some lot grading. Parts of the lands are within the Saugeen Valley Conservation Authority Regulated Area. There is no development proposed within the Regulated Area.

Section 3.5 states: Primary Settlement Areas are areas suitable for high *intensification* targets, public transit services, and have full municipal services. Municipalities with primary *settlement areas* will, in their official plans, identify and plan for *intensification* within these areas. The *development* of high quality urban form and open public spaces within these areas is also encouraged through site design, and urban design standards, to create attractive and vibrant places that support walking and cycling for everyday activities and are transit-supportive.

Section 3.5 (2) states: Land use policies and *development* standards in areas designated Primary *Settlement Areas* will be in accordance with local official plans and/or secondary plans.

Section 3.5(6) supports intensification and requires that new construction should occur in a manner that takes into account the existing built and physical environment and is compatible with the surrounding land uses.

Section 7.4 talks about Significant Woodlands. Grey County Planning Ecologist is of the opinion that an EIS is not required in regard to Natural Heritage issues.

The semi-detached units provide an alternative housing option to purchasers and supports the intensification direction of the Grey OP.

There will be a small increase in traffic on Durham Street East. There are multiple existing driveways in the area that access Durham Street. The additional units are not expected to cause any transport issues. There is no sidewalk on the Durham Street at this time.

Water and sanitary services will be provided to the lots. Municipal waste removal and recycling services are available. The lot grading/stormwater proposal is reasonable.

The Manager of Planning and Development is satisfied that the consents conform to the policies of the Grey County Official Plan.

Municipality of West Grey Official Plan (West Grey OP)

Section D2.3.1 The predominant use of land within the Residential designation shall be residential dwelling units. The types of dwelling unit permitted shall include low density housing such as detached dwellings, semi-detached dwellings and duplexes, medium density housing such as triplexes, quadraplexes and townhouses and high density housing such as apartments.

The consents will have frontage on a public road that is opened and maintained year-round and is of construction acceptable to the municipality. The lots are of a size and configuration that is appropriate and suitable for the location of a dwelling, driveway etc. Cash-in-lieu of parkland dedication is required. A Consent Agreement with West Grey may be required. The Agreement may be required to address such specific issues as sewer and municipal water connections, lot grading and drainage.

The Manager of Planning and Development is satisfied that the consents conform to the policies of the West Grey Official Plan.

Municipality of West Grey Zoning Bylaw

The subject lands are zoned 'R1B Low Density Residential' and 'Floodline with Regulation Limit' in West Grey Zoning Bylaw 37-2006.

The associated Zoning Bylaw Amendment Application proposes to change the zoning on Severed Lot 1/Severed Lot 2 to 'R2 Medium Density Residential' to allow for the construction of a semi-detached dwelling on Severed Lot 1/Severed Lot 2. The current 'R1B Low Density Residential' zoning does not permit semi-detached dwellings.

Severed Lot 1/Severed Lot 2 will meet the Regulations of the 'R2 Medium Density Residential' zone. The retained lot will meet the Regulations of the 'R1B Low Density Residential' zone. A condition requiring a zoning bylaw amendment to be in force has been included in the provisional conditions of consent.

The Manager of Planning and Development is of the opinion, provided a zoning bylaw amendment is approved and in force, that the consents are consistent with the intent of the West Grey Zoning Bylaw.

Financial Implications:

Potential appeal to the Ontario Land Tribunal.

Climate and Environmental Implications:

As reviewed in this Report.

Communication Plan:

As required under the Planning Act, R.S.O. 1990, as amended.

Consultation:

As required under the Planning Act, R.S.O. 1990, as amended.

Attachments:

1. Schedule A – B05.2025 & B06.2025 – 579575 Ontario Ltd o/a Candue Homes
2. Aerial
3. Grey Official Plan Schedule A
4. Grey Official Plan Appendix B
5. West Grey Official Plan Schedule A – Land Use Durham
6. West Grey Official Plan Appendix A – Constraints Durham
7. SVCA Regulated Area
8. West Grey Zoning

Recommended by:

David Smith, RPP, MCIP, Manager of Planning and Development

Submission approved by:

Michele Harris, Chief Administrative Officer

For more information on this report, please contact David Smith, Manager of Planning and Development at planning@westgrey.com or 519-369-2200 ext. 236.