



Town of Whitby

By-law # 7430-18

Site Plan Control By-law

Being a By-law to designate the Town of Whitby as a Site Plan Control Area and to delegate to the Commissioner of Planning and Development the approval of plans and drawings in certain areas of Site Plan Control.

Whereas, Section 41 of the Planning Act, R.S.O. 1990, c. P.13, as amended, permits the council of a municipality to designate the whole or any part of the municipality as a site plan control area;

And whereas, Section 41 of the Planning Act, R.S.O. 1990, c. P.13, as amended, permits the council of a municipality by by-law to delegate to either a committee of the council or to an appointed officer of the municipality identified in the by-law either by name or position occupied, any of the council's powers or authority under the said section, except the authority to define any class or classes of development as mentioned in clause 41(13)(a) of the Planning Act;

And whereas, the Council of The Corporation of The Town of Whitby considers it desirable to pass such a by-law;

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

1. Definitions

1.1. In this by-law,

1.2. **"ACT"** means the Planning Act, R.S.O. 1990, c. P.13, as amended;

"DEVELOPMENT" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers as defined in clause 164(4)(a) of the Municipal Act, 2001, s.o. 2001, c. 25 as amended, or of sites for the location of three or more mobile homes as defined in subsection 46(1) of the Act;

Notwithstanding the definition of development above, within the Oak Ridges Moraine, as established by Ontario Regulation 1/02, in addition, "development" shall also include the creation of a new lot, a change in land use, or the construction of buildings and structures, any of which require approval under the Act, the Environmental Assessment Act, R.S.O. 1990., c. E.18, as amended, or the Drainage Act, R.S.O. 1990 c. 0.17, as amended, but does not include:

- (a) the construction of facilities for transportation, infrastructure and utilities uses, by a public body as described in Section 11.11.9 of the Town of Whitby Official Plan;
- (b) the reconstruction, repair or maintenance of a drain approved under the Drainage Act, R.S.O. 1990, c. D.17, as amended, and in existence on November 15, 2001;
- (c) the carrying out of agricultural practices on land that was being used for agricultural uses on November 15, 2001;
- (d) the placement of a portable classroom on a school site of a district school board if the school site was in existence on January 1, 2007.

"SITE ALTERATION" within the Oak Ridges Moraine means activities such as filling, grading and excavation that would change the landform and natural vegetative characteristics of land, but does not include,

- (a) the construction of facilities for transportation, infrastructure and utilities uses, by a public body as described in Section 11.11.9 of the Town of Whitby Official Plan;
- (b) the reconstruction, repair or maintenance of a drain approved under the Drainage Act, R.S.O. 1990, c. D.17, as amended and in existence on November 15, 2001;
- (c) the carrying out of agricultural practices on land that was being used for agricultural uses on November 15, 2001.

"TOWN" means The Corporation of the Town of Whitby.

2. Interpretation

2.1. Site Plan Control Area

All land located within the corporate limits of the Town is hereby designated as a site plan control area.

3. General

3.1. No person shall undertake any development in the site plan control area designated by this By-law unless the Council of the Town or, where a referral has been made under subsection 41(12) of the Act, as amended, to the Local Planning Appeal Tribunal,

- (a) plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith including those facilities and works referred to in subsection 3.2 of this By-law and, including facilities designed to have regard for accessibility for persons with disabilities;
- (b) drawings showing plan, elevation and cross section views for each building to be erected which are sufficient to display,

- (i) the massing and conceptual design of the proposed building;
 - (ii) the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access;
 - (iii) the provision of interior walkways, stairs, elevators and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings;
 - (iv) matters relating to exterior building design details including, but not limited to sustainable design, character and appearance, but only to the extent that it is a matter of exterior design;
 - (v) facilities designed to have regard for accessibility for persons with disabilities;
 - (vi) sustainable and accessible design elements within, or adjacent to, an adjoining municipal right-of-way, including without limitation, trees, landscaping, permeable paving materials, street furniture, curb ramps, waste and recycling containers and bicycle parking facilities;
 - (vii) architectural drawings illustrating appropriate design characteristics and materials to mitigate the potential for bird strikes and a report from a qualified environmental consultant that states that appropriate and acceptable mitigation measures have been included in the design.
- (c) Within the Oak Ridges Moraine, plans or drawings showing how the recommendations of an approved natural heritage evaluation will be implemented.

3.2. As a condition of approval of the plans and drawings referred to in subsection 3.1 of this By-law, the Town may require the owner of lands being developed to,

- (a) provide to the satisfaction of and at no expense to the Town any or all of the following:
 - (i) widenings of highways that abut on the land;
 - (ii) subject to the Public Transportation and Highway Improvement Act, R.S.O. 1990, c. P.50, as amended, facilities to provide access to and from the lands such as access ramps, curbing and traffic direction signs;

- (iii) off-street vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways for emergency vehicles, and the surfacing of such areas and driveways;
 - (iv) walkways and walkway ramps, including the surfacing thereof, and all other means of pedestrian access;
 - (v) facilities designed to have regard for accessibility for persons with disabilities;
 - (vi) facilities for the lighting, including floodlighting, of the land or of any buildings or structures thereon;
 - (vii) walls, fences, hedges, trees, shrubs or other ground cover or facilities for the landscaping of the land or the protection of adjoining land;
 - (viii) vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material;
 - (ix) easements conveyed to the Town for the construction, maintenance, or improvement of water courses, ditches, land drainage works and sanitary sewerage facilities and other public utilities on the land;
 - (x) grading or alteration in elevation or contour of the land and provisions for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon;
 - (xi) reports and/or studies demonstrating conformity with the policies of the Town's Official Plan and requirements of the Town's Zoning By-laws, as amended.
- (b) maintain to the satisfaction of the Town and at the sole risk and expense of the owner any or all of the facilities or works mentioned in paragraphs (ii) to (viii), inclusive, of clause 3.2(a) of this By-law including the removal of snow and ice from access ramps and driveways, parking and loading areas and walkways;
 - (c) enter into one or more agreements with the Town dealing with and ensuring the provisions of the facilities, works or matters to be provided in accordance with clause 3.2(a) of this By-law and the maintenance thereof as mentioned in clause 3.2(b) of this By-law and the provision and approval of the plans and drawings referred to in subsection 3.1 of this By-law.

3.3. The Commissioner of Planning and Development is authorized to execute on behalf of the Town any agreement being entered into pursuant to clause 3.2(c) of this By-law.

3.4. Delegation

- 3.4.1. Despite the provisions of subsection 3.1 of this By-law relating to the approval of a class or classes of development within the site plan control area by the Council of the Town, the Commissioner of Planning and Development, or his or her designate, is authorized to approve the following:
- (a) Development of residential sales offices and model homes.
 - (b) Development, expansion and/or enlargement of new and existing buildings and structures on lands located within an Environmentally Sensitive Area or Hazard Land designation beyond the Urban Area Boundary as shown on Schedules "A" and "C" of the Whitby Official Plan;
 - (c) Development, expansion and/or enlargement of new and existing buildings and structures within the dotted area as outlined on Schedule "A-1" Oak Ridges Moraine – Environmental Protection Site Plan Control Area and within the single or double cross-hatching areas as outlined on Schedule "A-2" Oak Ridges Moraine – Landform Conservation Areas Site Plan Control Area attached hereto and forming part of this by-law.
 - (d) Pursuant to clause 41(13)(b) of the Act, the powers and authority of the Council of the Town of Whitby under section 41 of the Act, except the authority to define any class or classes of development as mentioned in clause 41(13)(a) are hereby delegated to the Commissioner of Planning and Development of the Town of Whitby.
 - (e) Notwithstanding clause 3.4.1 (d), the Commissioner of Planning and Development shall not grant or deny approval of a site plan application where site plan approval is requested or required to be give by Council.
- 3.4.2. When exercising such power and authority, the Commissioner of Planning and Development shall be responsible for the processing, co-ordination and preparation of any agreements being entered into pursuant to clause 3.2 (c) of this By-law and shall comply with all By-laws and policies adopted by the Council relating to any of the matters which are to be considered under the said Section.

3.5. Exceptions

- 3.5.1. The following class or classes of development may be undertaken without the approval of plans and drawings otherwise required under subsection 3.1 of this By-law:
- (a) single detached dwelling, semi-detached dwelling, duplex dwelling, link dwelling or street townhouse dwelling including

any accessory buildings related thereto, and buildings or structures used for agricultural operations, unless,

- (i) the main building and any accessory building or structure is designated under the Ontario Heritage Acts, R.S.O. 1990, c. O.18, as amended;
- (ii) the land is located within an Environmentally Sensitive Area or Hazard Land designation as shown on Schedules "A" and "C" to the Whitby Official Plan.

4. Schedule(s)

4.1. Oak Ridges Moraine – Environmental Protection Site Plan Control Area

- 4.1.1. Despite the provisions of subsection 3.5 of this By-law, in the Oak Ridges Moraine, on the land located within the dotted area as shown on Schedule "A-1" Oak Ridges Moraine – Environmental Protection Site Plan Control Area attached hereto and forming part of this By-law, the approval of plans and drawings is required under subsections 41(4) and (5) of the Act.

4.2. Oak Ridges Moraine – Landform Conservation Areas Site Plan Control Area

- 4.2.1. Within the Oak Ridges Moraine, the following provisions shall apply with respect to an application for development or site alteration within a Landform Conservation Area (Category 1) as indicated by single diagonal cross-hatching on Schedule "A-2" Oak Ridges Moraine – Landform Conservation Areas Site Plan Control Area, attached hereto and forming part of this By-law:

- (a) The net developable area of the site that is disturbed shall not exceed 25 per cent of the total site area; and
- (b) The net developable area of the site that has impervious surfaces shall not exceed 15 per cent of the total site area.

- 4.2.2. Within the Oak Ridges Moraine, the following provisions shall apply with respect to an application for development or site alteration within a Landform Conservation Area (Category 2) as indicated by double cross-hatching on Schedule "A-2" Oak Ridges Moraine – Landform Conservation Areas Site Plan Control Area, attached hereto and forming part of this By-law:

- (a) The net developable area of the site that is disturbed shall not exceed 50 per cent of the total site area; and
- (b) The net developable area of the site that has impervious surfaces shall not exceed 20 per cent of the total site area.

5. Enforcement and Penalties

- 5.1. In default of the provision and approval of the plans and drawings referred to in subsection 3.1 of this By-law or the provision of any or all of the facilities, works or matters referred to in clause 3.2(a) of this By-law and the maintenance thereof to the satisfaction of the Town, the provision of such plans, drawings, facilities, works or matters may be carried out by the Town at the owner's expense and at the sole risk of the owner.
- 5.2. In default of maintenance by the owner to the satisfaction of the Town of any or all of the facilities or works referred in clause 3.2(b) of this By-law, such maintenance may be done by the Town at the owner's expense and at the sole risk of the owner.
- 5.3. Any expense incurred by the Town under subsections 5.1 or 5.2 of this By-law may be recovered by action, or the same may be recovered in like manner as a municipal property tax as a priority lien against the property in respect of which the amount was imposed, or the Town may provide that the expense incurred by it with interest shall be payable by the owner in annual instalments not exceeding ten years and may, without obtaining the assent of the electors, borrow money to cover such expense by the issue of debentures of the Town payable in not more than ten years.

6. Short Title

- 6.1. This By-law may be referred to as the Site Plan Control By-law.

7. Repeal of Existing By-law

- 7.1. By-law # 7015-15 is repealed.

8. Effective Date

- 8.1. This By-law shall come into force and take effect upon the final passing thereof.

By-law read and passed this 25th day of June, 2018.



Don Mitchell, Mayor



Christopher Harris, Town Clerk

SCHEDULE A-1

Oak Ridges Moraine - Environmental Protection Site Plan Control Area

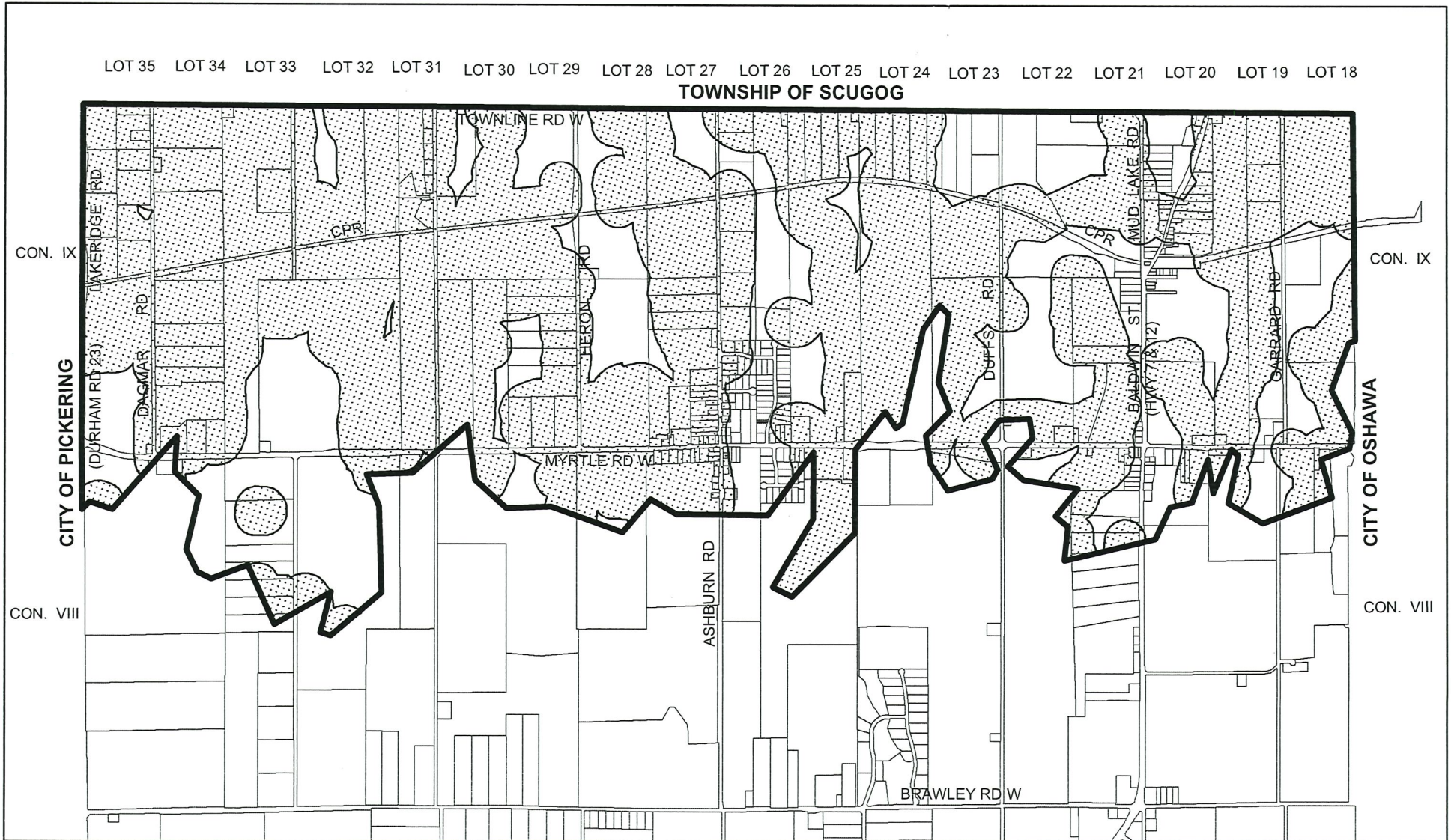
To By-Law No. 7430-18

This is Schedule A-1 to By-Law No. 7430-18 passed by the

Council of the town of Whitby this 25 day of June, A.D. 2018.


Clerk


Mayor



SCHEDULE A-2

Oak Ridges Moraine - Landform Conservation Areas Site Plan Control Area

To By-Law No. 7430-18

This is Schedule A-2 to By-Law No. 7430-18 passed by the

Council of the town of Whitby this 25 day of June, A.D. 2018.


Clerk


Mayor

