



Municipality of Port Hope

56 Queen Street
Port Hope, ON
L1A 3Z9

REPORT TO: Community Development Committee

FROM: Theodhora Merepeza, Planning Manager

SUBJECT: Second Submission
Draft Plan of Subdivision Application (SU01-2019),
Official Plan Amendment (OP01-2019) and
Zoning By-law Amendment Application (ZB06-2019)
Phase 5 – Lakeside Village Community
APPLICANT: Walker, Nott, Dragicevic Associates Limited on behalf
of AON Inc., 2107401 Ontario Inc., Penryn Park Estates Inc. and
Penryn Mason Homes Inc.

DATE: June 16, 2020

RECOMMENDATION:

Receive for information.

BACKGROUND:

This report updates Council on the status of the Penryn Mason Homes Inc., Phase 5 planning applications review and approval process, including:

- Proponent responses to comments and information requests made by municipal staff and outside agencies concerning the original Phase 5 plan.
- A new draft plan, received in May 2020 (referred to as a Phase 5 Second Submission), that now proposes to develop the subject lands on a phased basis, starting with a draft subdivision approval of the major western area of the subject lands (Phase 1), and deferring approval of (Phase 2) the wooded eastern portion (Block 305) and the 120m “buffer” area, immediately west of Block 305 for the future, once it has been determined whether or not Block 305 contains a Significant Woodland.
- A formal Municipal request to the Proponent requiring a Heritage Impact Assessment be completed as part of the application approval process; and,
- An overview of the next steps in the Phase 5 planning application review process.

On November 18, 2019 the Municipality considered the applications for the Draft Plan of Subdivision, Official Plan Amendment and Zoning By-law Amendment for the subject lands

located south of Strachan Street and west of Victoria Street South to be *complete* under Sections 51(17), 22 (6.1) and 34(10.4) of *The Planning Act*.

The applications were received from Robert A. Dragicevic of Walker, Nott, Dragicevic Associates Limited on behalf of AON Inc., 2107401 Ontario Inc., Penryn Park Estates Inc. and Penryn Mason Homes Inc. (collectively referred to as the “Proponent”). The “subject lands” consist of a 19.34 ha (47.8 ac) area representing several contiguous separate land parcels collectively referred to as “Phase 5” of the Lakeside Village Community (See **Figure 1: Subject Lands**).

A formal statutory public meeting was held on March 10, 2020 for the Phase 5 planning applications. At this meeting, the proponent’s legal representative proposed a revision (modification) to the subdivision plan originally submitted for consideration. The proposed modification was not received by the Municipality prior to the date of the public meeting. The proposed modification was conceptually described as creating two land parcels A & B, within the Phase 5 subdivision plan subject lands.

- Parcel A included the larger, westerly, and primarily non-wooded portion of the Phase 5 area.
- Parcel B included the area that contains a woodlot located west of Victoria Street South.

The Proponent’s representative advised that a more precise details regarding the proposal and the division of the subject lands would be provided by the Proponent as part of a formal submission. This was received in May 2020.

Responses to the Department/Agency Comments for the Original Phase 5 Plan

Following the statutory public meeting and staff report to Committee of the Whole (COW) (dated March 17, 2020), the municipality wrote to the Proponent on March 23, 2020 requesting they provide detailed responses to the comments and information requests previously made by internal departments and outside agencies for the original Phase 5 plan.

On May 13, 2020, the Proponent submitted their responses to 127 comments provided by 12 department/agencies in a matrix format. Staff reviewed their responses and requested further clarity and information from the Proponent on specific matters, resulting in minor revisions to them.

Some of the Proponent’s responses to department/agencies comments indirectly addressed public comments and questions raised through the public consultation process. The Department/agency comments are posted on the website and the Proponents responses will be posted following the Council meeting.

May 2020 Phased Proposal

Municipal staff received a revised Draft Plan of Subdivision, which included new information and updated reports. This revised Draft Plan is referred to as the Phase 5 “Second Submission”.

The subject lands have not changed from the original Phase 5 lands in this revised Draft Plan and remain a total area of 19.34 ha. However, it now consists of a two-phased, residential development. The Proponent proposes to start construction on the western side of the subject lands and progress eastward. On the eastern side of the subject lands, a wooded area and a 120m associated “buffer” area on its western edge will be subject to further study and a determination whether the wooded area is classified as a Provincially Significant Woodland.

The revised Draft Plan (see **Figure 2- Draft Plan of Subdivision**) identifies:

- Phase 1 as a 14.2 ha area on the west side of the subject lands consisting of 264 residential lots for 264 single detached dwellings; and,
- Phase 2 as a 5.1 ha area on the eastern side of the subject lands. It includes Block 305, a 2.84 ha wooded area, situated near the southwest corner of Strachan Street and Victoria Street South. Phase 2 also includes a “buffer” area which extends 120m west of Block 305. (see **Figure 3 - Phasing Plan**).

Note: Phase 1 & 2 replace the terms used by the Proponent to describe the conceptual parcels A and B. that were tabled identified at the public meeting in March.

It is also worth noting that the Draft Plan shows an underlying layout of lots and roads for the “buffer area”. Should an Environmental Impact Study (EIS) be required for this buffer area due to a significance determination related to the Block 305, the layout may need to be changed depending on the findings of the EIS. It is for this reason that the Proponent is not asking, at this time, for registration of the 120 m buffer area as part of Phase 1.

Draft Plan of Subdivision

The following provides further details on the revised Draft Plan proposed by the Proponent at this time.

1. The wooded area of the subject site, located at the southwest corner of Strachan Street and Victoria Street South, has been staked along the tree boundary on the west side and surveyed on site. The tree boundary was then assigned a minimum tree protection zone to the west (ranging from 1.8 m to 4.8 m). This line was delineated on the Draft Plan of Subdivision to create Block 305 (referred to the Proponent as “*Other Lands Owned by Applicant*”).

Block 305 is a 2.84 ha (7.0 ac). In the revised Draft Plan this is shown as not being planned for development at this time. The proponent has done so to allow additional time and assessment work on the Block’s wooded area including the lands to the west (buffer area) within 120m of the Block’s western boundary. Should it be determined that the wooded area is a Provincially Significant Woodlot, the Proponent may be required to undertake measures within this 120m area to mitigate potential impacts to the wood lot from its adjacent subdivision development.

2. The alignment of Street A has been shifted slightly to the west to run parallel to the western boundary of Block 305 and therefore excludes the wooded area. Street A has been designed to ensure that in the event Block 305 is designated as a Provincially

Significant Woodland, then the proposed road pattern can continue to provide for a complete road network for the remainder of the subdivision to the west.

The area to the west of Block 305, as shown on Figure 2, is also part of Phase 2. This area, which extends 120m west of Block 305, is shown as both a buffer and study area, consistent with Provincial policy, should there be a determination that the wooded area is a Provincially Significant Woodlot.

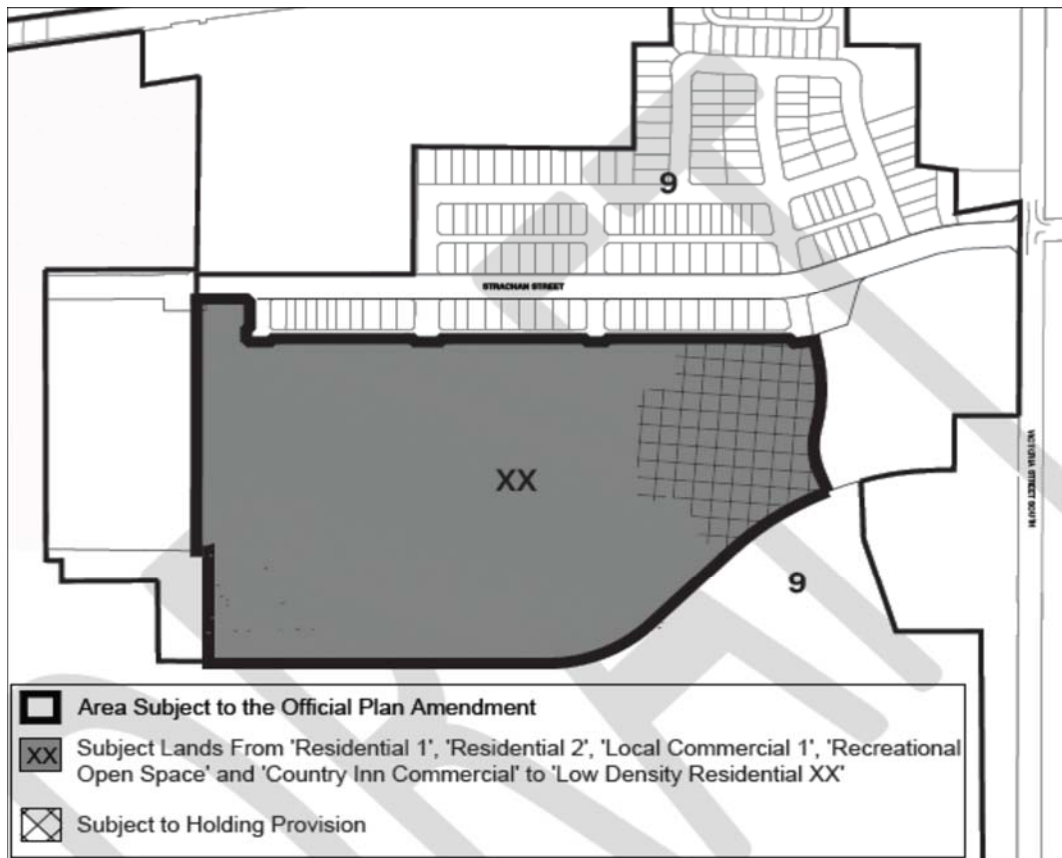
It is expected that appropriate conditions will be included in any approval of the draft plan to ensure that these lands are not developed until the Provincially Significant Woodlot determination has been made for the wooded area. If it is determined that it is not Provincially Significant, then development may proceed within this 120m area without negatively impacting the form and function of the protected area.

3. As a result of the above noted revisions to the Draft Plan of Subdivision, the total number of proposed single detached lots has been reduced from 326 to 303 (including the 39 units laid out on the east side of Phase 2)
4. The nine (9) proposed townhouse blocks (43 units), previously provided for along the Victoria Street South frontage have been removed. Should the wooded area not be determined to be of provincial significant, the development of this portion of the subject site will be subject to further Municipal planning review, approval and public comment.

Official Plan Amendment

The following provides further details on the revised Official Plan Amendment proposed by the Proponent at this time.

1. The eastern boundary of the area that is subject to the Official Plan Amendment has been adjusted from the original application to align with the western limit of Block 305, including the buffer, as delineated on the Draft Plan of Subdivision. Block 305 is, therefore, not included within the boundary of the lands that are subject to the Official Plan Amendment, allowing for further evaluation of the wooded area if necessary. The current underlying designation of the proposed Block 305, permitting residential uses, would therefore remain unchanged, because of this modified boundary area, which are subject to the revisions in this submission.
2. The proposed amendment provides a policy basis for the use of a Holding ("H") Provision in any implementing zoning by-law and allowance for the use of conditions of Draft Plan Approval to permit the future residential development of the lands, located within 120m of the staked treeline (located within Block 305), only following further assessment of the wooded area, through an Environmental Impact Statement, in the event that the wooded area is determined to be Provincially significant.



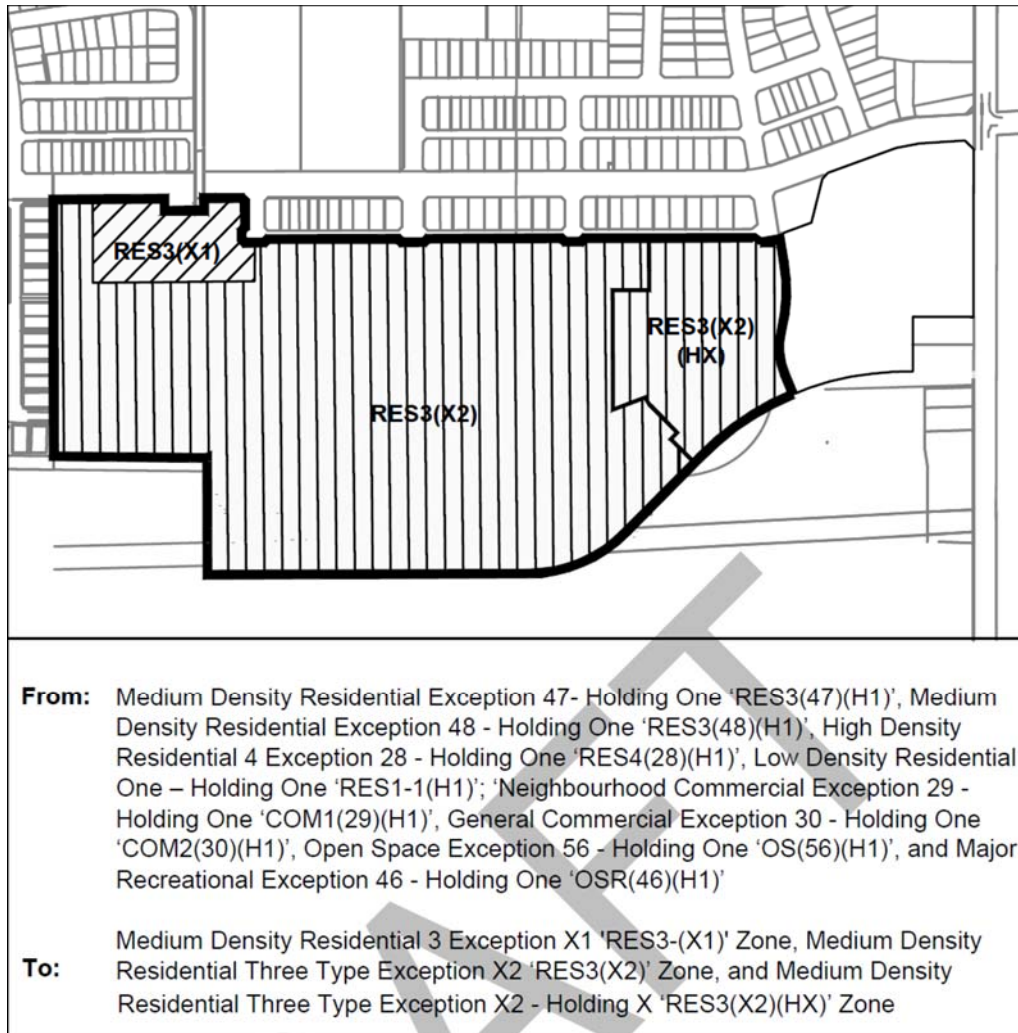
3. The resulting minimum density target for the residential development has been reduced slightly to approximately 40 residents/jobs per hectare. If Block 305 is not part of the development area, the overall density for the draft plan is 46 residents/jobs per hectare. If it is further determined that the lands within the 120m of the staked tree line are also not part of the development area, the overall density is 47 residents/jobs per hectare.

Zoning By-law Amendment

The following provides further details on the revised Zoning By-law Amendment proposed by the Proponent at this time.

1. Consistent with the Official Plan Amendment, the eastern boundary of the area subject to the Zoning By-law Amendment has been adjusted to align with the western limit of Block 305, inclusive of the buffer, as shown on the Draft Plan of Subdivision. Block 305 is currently not included within the boundary of the lands subject to the Zoning By-law Amendment to allow for further evaluation of the Block 305 area. The current zoning of Block 305, permitting residential uses, therefore remains unchanged, at this time.
2. The zone category allowing for the townhouse units and associated regulations has been removed from the draft zoning by-law amendment.

3. A Holding (“H”) Provision has been included in the draft zoning by-law amendment to provide for the future residential development of these lands. The holding provision would apply to those lands located within 120m of the field surveyed and staked treeline (located within Block 305), requiring an environmental review should there be a determination that the wooded area is Provincially significant. If the wooded area is not determined to be Provincially significant, the holding provision would not apply and these lands could be developed, as per the underlying zone regulations, once further assessment of the wooded area has been completed.
4. The zoning bylaw amendment would allow for the development of the Draft Plan of Subdivision, as proposed and the holding provision would apply to 39 residential lots.



Heritage Impact Assessment (HIA)

During the public meeting held on March 10, 2020, along with comments made during the public consultation process, many questions were raised about the potential impact the Phase 5 development could have on the designated heritage properties at 82 and 88 Victoria Street South. Of note was the lack of a heritage impact assessment for the Proponent’s Phase 5 residential development.

In the Fall of 2019, Staff made the determination that the proposed development was not “contiguous to or adjacent to a cultural heritage resource” and therefore did not require a Heritage Impact Assessment. Staff’s interpretation was based on their review of Cultural Heritage Policies in the 2014 Provincial Policy Statement.

Staff’s interpretation was based on Section 2.6.3 of the PPS 2014, which states: “Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.” The PPS 2014 defines ‘adjacent’ as it relates to Section 2.6.3 clause as: “those lands contiguous to a protected heritage property or otherwise defined in the municipal official plan.”

However, Section C 11.2.3 of the Port Hope Official Plan has more specific and mandatory provisions regarding the evaluation of potential impacts of proposed development on built heritage resources.

Staff have concluded, based on the advice of legal counsel and relevant provisions of the Port Hope Official Plan, that the Municipality is authorized and, in fact, the policies of the Official Plan require the preparation of a Cultural Heritage Impact Assessment by a qualified heritage consultant to evaluate the proposed development on the Phase 5 lands, regardless of whether or not the proposed development is contiguous to or adjacent a cultural heritage resource.

The Official Plan defines “cultural heritage resource” to include “built heritage resources”. The Official Plan states that “built heritage resources” are generally located on property that has been designated under Part IV of the Ontario Heritage Act. The properties at 82 and 88 Victoria Street South have been designated under Part IV, Section 29 of the *Ontario Heritage Act*.

Therefore, the Municipality has formally requested that the Proponent undertake a Cultural Heritage Impact Assessment (HIA) by a qualified heritage consultant for the Phase 5 development. This requirement shall be at the expense of the Proponent. Staff are considering retaining independent heritage expertise for advice and to conduct a peer review of the HIA.

Next Steps

Figure 4 contains a revised flow chart that outlines the planning process undertaken to date and the next steps. On June 5, 2020 staff circulated the second submission to all the agencies and internal departments for their review and comments.

Staff Reports

At the March 2020 Public Meeting, staff provided an overview of the original planning applications, associated reports, planning legislation and comments received up to the date of the Public Meeting. No formal recommendations were provided in the staff report or Council’s decision at that time

A Planning recommendation report will be prepared for the Proponent's revised draft plan and Second Submission. It will be presented at a special Committee of the Whole meeting, prior to Council rendering a final decision.

Public Consultation

The public can provide input to Council and staff at any point prior to Council's decision on Phase 5. The dedicated community consultation page "Penryn Mason Homes – Phase 5" was created under the Municipality's website on December 2, 2019 and has been regularly updated. The page contains links to all of the materials submitted by the Proponent as well as notices, memos and reports prepared by staff.

This webpage enables the public to provide feedback throughout the review process. It will be updated following the Council meeting and will include Proponent responses to Department/agency comments and the Second Submission information received to date following the Council meeting.

The special public meeting of the Committee of the Whole is planned for later this year, prior to Council making a decision on these Phase 5 planning applications.

RESOURCE IMPLICATIONS

The Municipality has incurred legal costs regarding the legal opinions obtained to date. It is anticipated that the Municipality will require a third-party heritage expert for a peer review of the HIA, which will ultimately be paid by the Proponent as part of the planning process. However, depending on the review and the comments received regarding the environmental assessment and other Phase 5 planning matters, staff may require further expertise in this matter, that may not be paid by the Proponent. The costs noted do not include those that would be incurred should this matter be appealed to LPAT by any party.

Any costs not normally covered by the Proponent that have significant municipal budget impacts will be brought to Council's attention prior to entering into a contract for these services.

CONCLUSION

The purpose of the Proponent's proposed revised Draft Plan for the Phase 5 Second Submission application is to facilitate the development of Phase 1 consisting of 264 single detached dwellings in a freehold tenure, subject to appropriate conditions for Phase 2 lands.

In order to allow for additional review of Block 305 and the lands to the west within 120 m of the Block (wooded area), the Proponent's Second Submission seeks approval for Phase 1 (14.2 ha) development plans now, while deferring the development of Phase 2 (5.1 ha) until a determination is made whether this wooded area is a Provincially Significant Woodland. If a determination is made that it is not Provincially Significant, the development may proceed within this 120m area with conditions without negatively impacting the form and function of the protected area.

The purpose of the proposed Official Plan Amendment is to re-designate the majority of the subject lands within Phase 1 (excluding the former Scora lands) and a portion of Phase

2 (120 m buffer area) from Residential 1', 'Residential 2', 'Recreational Open Space', 'Local Commercial 1' and 'Country Inn Commercial' within 'Special Policy Site Area 9' to a site specific "Low Density Residential- Urban" designation to allow residential uses consistent with the adjacent approved Mason Homes Phase 4 Plan of subdivision. Block 305 is not included within the boundary of lands subject to Official Plan Amendment.

An amendment to the existing zoning by-law is requested in order to establish appropriate development standards to accommodate the freehold dwelling types and designs to be constructed within the proposed subdivision by rezoning the lands (including the portions of the subject lands that that were previously part of the Port Hope Golf and Country Club) to three site specific Residential Zones.

A Holding provision is proposed to the lands located within 120 m of Block 305. Consistent with Official Plan Amendment, Block 305 is not included within the boundary of lands subject to Zoning By-law Amendment.

Respectfully submitted,

Theodhora Merepeza, M.C.P., MCIP, RPP
Planning Manager

Figure 1: Subject Lands

Figure 2: Revised Draft Plan (May 2020)

Figure 3: Phase 5 Phasing Plan

Figure 4: Revised Flow Chart

Figure 1: Subject Lands

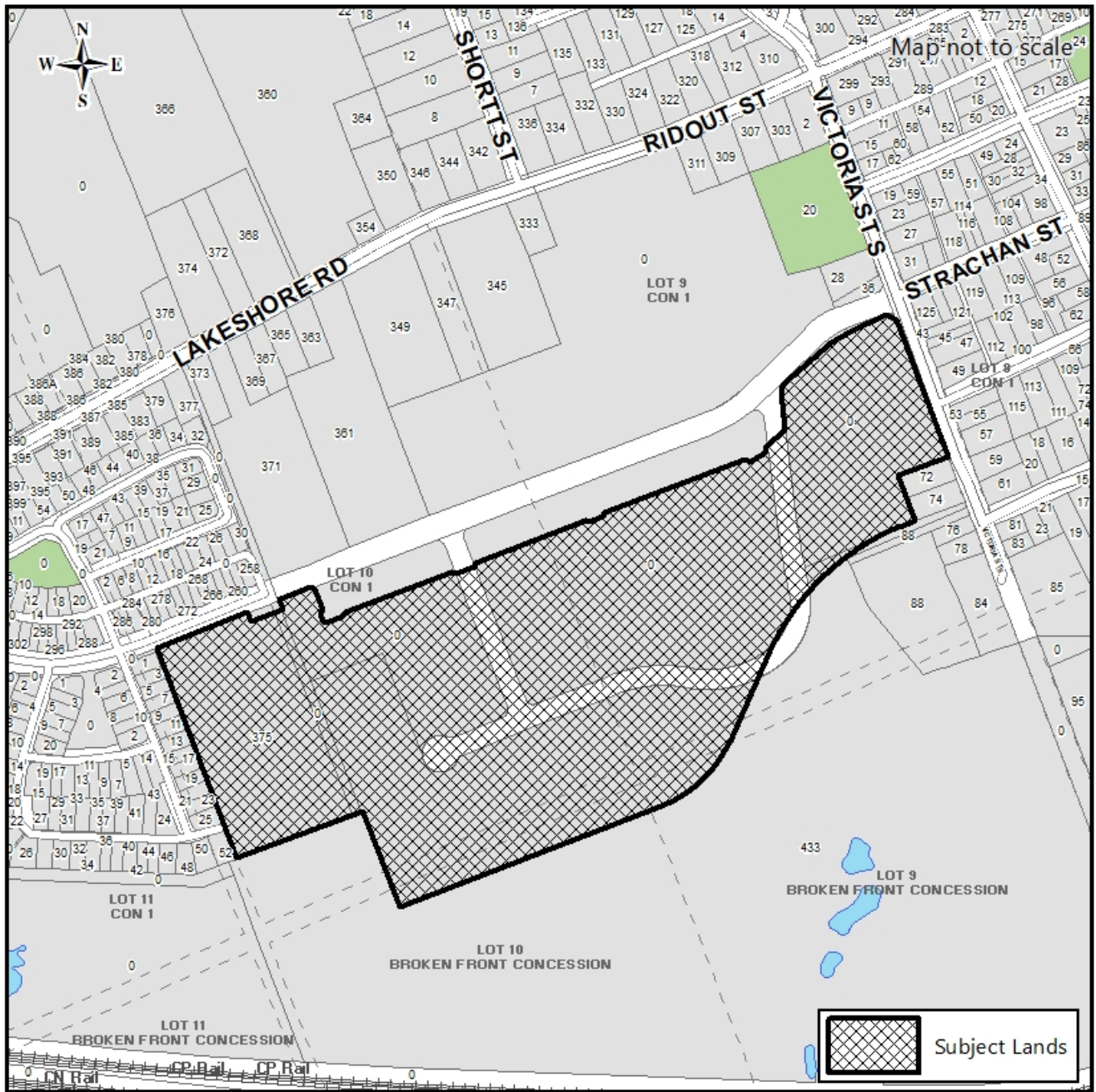
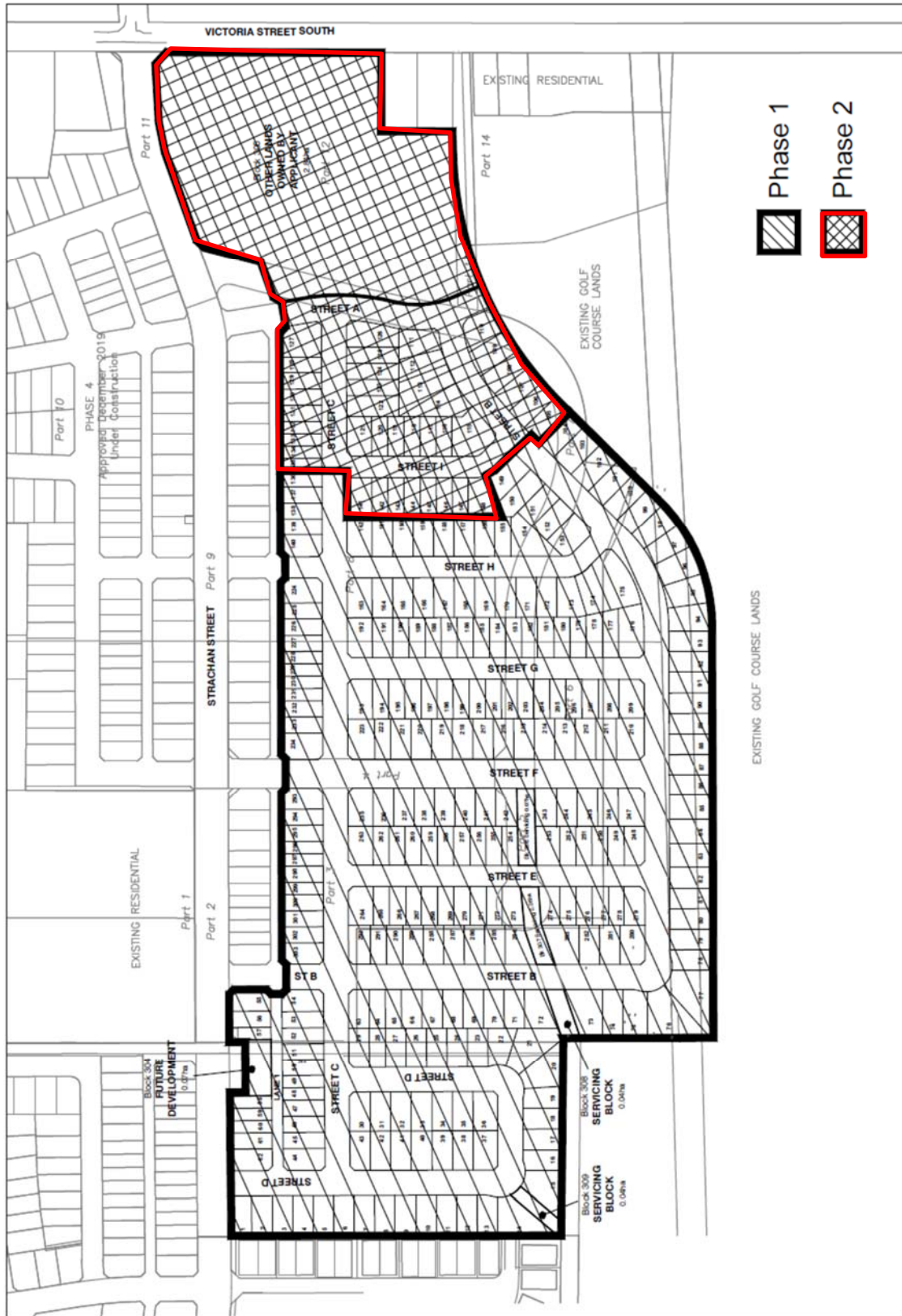


Figure 2: Proposed Draft Plan (dated May 7, 2020)
(separate attachment)

Figure 3: Phase 5 Phasing Plan



**Figure 4:
Updated Planning Process
Flow Chart**

