

About Site Plans, Zoning and Appeals

1) What is a site plan ?

They are detailed plans and drawings showing the proposed location and design of buildings, parking, landscaping and other facilities. Site plans are required for new developments as well as amendments to existing properties before a building permit is issued.

2) What is a Zoning By-law and can the Zoning By-law regulate the types of tenants?

Zoning By-laws regulate the use of land, where buildings/structures can be located on the site, lot sizes/dimensions, parking requirements, building heights and setbacks. The Town's Zoning by-law sets out the permitted land uses but cannot regulate tenancy or tenure.

3) What is the purpose of a site plan application?

Site plan applications are a legislated requirement under Section 41 of the *Planning Act* and mandated in the town's Official Plan policy and site plan by-law. The site plan approval process provides municipalities with an opportunity to review and approve plans and drawings related to a proposed development.

The approval process is technical in nature and used to manage implementation details related to a development before the issuance of building permits or the commencement of site works. These details can relate to matters such as grading, drainage, tree preservation, landscaping, the exterior design of buildings, the location of garbage facilities, and vehicular and pedestrian traffic movement, both within the site and in areas where there are connections to public roads and sidewalks.

4) How do site plans relate to zoning?

Site plans are used to make sure the proposed development meets the requirements of the zoning by-law. Site plans start with the requirement that the proposed use is permitted. Zoning by-law speaks to how the land can be used, e.g. retail, commercial etc. and provides the context when applying for a building permit. Site plan applications are not about land use, but about the specifics of implementation for a new development to an existing property. Site plan applications provide the details necessary to help municipalities review and issue building permits.

5) Can a site plan application be refused by the town?

While it is possible that site plan applications may not be approved as submitted, unlike zoning by-laws or similar applications, a complete refusal of an application is not allowed when the site plan is for a permitted land use. Instead, the town advises the applicant to make revisions to the plans and drawings to align with town's standards. If the proposal cannot meet the town's standards, the application may be appealed by the applicant/landowner to the Ontario Land Tribunal (OLT) to determine the details of the plans, drawings and conditions.

6) What can a site plan regulate?

Site plan authority does not include the power to impose conditions restricting on-site operational matters such as hours of operation.

Section 41 - Subsection (7) of the *Planning Act* specifies what types of conditions a municipality can impose conditions of site plan approval relating to:

- Road widenings – as required by the Official Plan of Town/Region
- Access to/from Roads – curbs, access ramps, traffic direction signs
- Loading and Parking Facilities – covered or uncovered, driveways, surfaces
- Walkways / Pedestrian Access
- Accessibility for People with Disabilities
- Lighting
- Landscaping – including walls, fences, hedges, trees, shrubs or other groundcover, for the landscaping of the lands or the protection of adjoining lands
- Garbage/Waste – vaults, central storage, collection areas, enclosures
- Municipal Easements – related to watercourses, ditches, land drainage works, sanitary sewage facilities and other public utilities of the municipality or local board
- Grading and Drainage – including disposal of storm, surface, and wastewater

Since site plan approvals deal with the provision of facilities, rather than the use of those facilities, conditions related to operational matters such as restrictions on the hours of operation, construction phasing and tenancy are not within the scope of the site plan authority.

The applicant may agree to things beyond the scope of Section 41 but it is voluntary on behalf of the applicant and can't be enforced.

[About site plan applications for 560/570/580 Winston Churchill Boulevard and 700/750 Winston Churchill, Oakville](#)

7) Was potential noise levels considered when the town reviewed the application?

Operational aspects such as noise levels are not part of the site application review authority. However, the applicants have agreed to work with the town to coordinate the phasing of the development to minimize impacts to the residential community. In addition, the June 9, 2022, commitment letter from the applicants indicates that *"The Owner will undertake to insert a provision in any lease agreement with respect to a reduction in the usage of loading docks after 11:00 pm."* The applicant's noise study for 560 WCB identified 10-12 loading docks adjacent to Winston Churchill Blvd., on Building A. A clause will be included within the future site plan agreement to restrict the operational hours of these loading bays once the final noise study is to the town and Region's satisfaction.

8) What did Council decide for these site plan applications?

At the June 27, 2022 meeting, based on the [planning report](#) and details in the site plan applications, the applications were conditionally approved by Council.

9) I am not happy with Council's decision. Can I appeal the site plan applications?

Section 41 – Subsection (12) of the *Planning Act*, sets out the rights of appeal for site plan applications. Subsection 12 states that only the applicant/landowner can appeal the municipality's lack of a decision within 30 days of submission of the application. The applicant/landowner can also appeal the conditions imposed by the municipality.

Third parties (such as neighbours in the surrounding area) do not have a right of appeal for a site plan application under the *Planning Act* since the application is not proposing a change in land use, only the technical implementation of what is already permitted in the town's Zoning By-law.

10) I didn't know these applications were being reviewed; why wasn't I informed?

The site plan process under the *Planning Act* is designed to review technical implementation details of development that are otherwise permitted. As a result, the *Planning Act* does not require municipalities to provide public notice of the receipt of a site plan application.

However, it is the town's standard practice to make information available to the public by placing plans and other information on the town's website for public awareness. In addition, understanding the interest in the community in these applications, the town requested the applicants to host a virtual open house to provide an overview of the applications and to hear the community's feedback. A public notice about the open house was issued by the applicants on September 10, 2021. This meeting was held on September 27, 2021, where 60 members of the public, and the Ward Councillors, attended. The minutes from the meeting were attached to the [planning report](#) as Appendix "H".

11) Does the Planning Act mandate the municipality to hold public info sessions before a site plan application is approved?

The *Planning Act* does not require a municipality to host a public meeting. Under the Town's Site Plan Control By-law 2019-114, the Director of Planning Services is given the authority to approve site plans. However, section 9 of By-law 2019-114 allows the option for the Planning Director to present the site plans to Council at any time before final approval and shall do so if specifically requested by Town Council.

On February 28, 2022, Council passed a resolution requesting these site plan applications be presented to Council for consideration and review. A courtesy notice for the meeting was provided through a mailing of all properties adjacent to the subject lands, residents who submitted comments, and attended the developer-initiated Public Information meeting, the Resident Associations, and agencies, including Halton Region, Peel Region, the City of Mississauga and Credit Valley Conservation Authority.

12) I was unaware that warehousing was permitted on these lands; when did this change?

Warehousing was always allowed on the subject lands dating back to the 1960s.

The town's former by-law 1965-136 zoned the lands fronting onto Winston Churchill Blvd as *M1 – Light industrial*, which permitted warehousing and storage within enclosed buildings and assembly of manufactured products.

The 1984 by-law zoned these lands as "E1- Light Employment and although the by-law did not list "warehousing" as a separately defined permitted use on these lands, "Light Industrial Operations" was permitted and defined as:

"a) Light manufacturing, fabricating, processing, repair, servicing, packaging and warehousing of products or materials; and

b) Propane transfer facility for the use of the owner or tenant of the lands"

Based on the above definition, the "E1" zoning permitted *warehousing*.

13) Why was the zoning by-law changed from six to four categories?

Zoning By-law 1984-63 and the current Zoning By-law 2014-014 are structured differently. The earlier by-law had six employment/industrial zoning categories. In contrast, the current by-law has four zoning categories to align with the four employment designations within the town's Official Plan (*Livable Oakville Plan*). The purpose of reducing the six employment/industrial zone categories into four was to consolidate, streamline and standardize the use and regulatory framework. Warehousing uses were permitted in the six zoning categories under the earlier by-law 1984-063.

14) Why would the town change the zoning from "E1" to "E2" because now the warehouse use can operate 24/7?

Hours of operation are not regulated under the zoning by-law, and there is no difference between the two zones on this matter. The zoning code changed from E1 to E2 as the six categories were streamlined into four.

15) How is the Town mitigating impact on the residential uses in the vicinity?

In the 1960s, the former hydro corridor (now Aspen Forest Park) was zoned for employment/industrial uses. These lands are now zoned *O1-Park* and are owned by the town, which forms a buffer to the adjacent residential uses. Berms and landscaping have been or will be provided within these lands as conditions of development for the warehouse.

There is also site-specific zoning on these lands to mitigate any adverse effects on nearby residents. This includes specifying the location of loading areas, the location of outdoor storage and applying a maximum height when a maximum is not included as part of the standard zone regulations. These steps help mitigate noise from the loading areas.

16) What are D6 guidelines and do they apply to the Winston Churchill Blvd applications?

D6 guidelines are used when a change in land use is proposed, for example relating to an application for a Zoning By-law Amendment or Official Plan Amendment (eg. Commercial uses to residential uses).

Section 2.3.2 "Compliance with Existing Zoning and Official Plan Designation" of the D6 Guidelines states, *"This guideline does not normally affect a change in land use, an expansion, or new development, for either a facility or a sensitive land use which is in compliance with existing zoning, and the official plan designation, except for plans of subdivision and condominium and/or severances."*

The *Livable Oakville Plan* permits warehousing on these lands and the proposed development at both properties comply with the zoning by-law, therefore the D6 guidelines do not apply to the review of these applications.

However, the inclusion of site-specific zoning (Special Provision 201) on these lands intends to minimize adverse impacts to the residential area by restricting the location of loading areas, restricting the location of outdoor storage and applying a maximum height when a maximum is not included as part of the standard E2 zone regulations.

About noise, traffic and other impacts at 560/570/580 Winston Churchill Boulevard and 700/750 Winston Churchill Boulevard

17) Who requested a noise study for this application and what are the findings?

A Land Use Compatibility Study/Noise study was requested by Halton Region and peer-reviewed by a third-party consulting firm (Dillon Consulting). The peer reviewer indicated that *"to fully understand the potential quantitative cumulative noise impacts from both industrial uses on the surrounding sensitive receptors, a stationary noise assessment should be completed by a Qualified Acoustic Consultant encompassing the operations of both 560 Winston Churchill Boulevard and 772 Winston Churchill Boulevard proposed developments."*

The town expects an updated noise impact report to address any mitigation measures required prior to final approval.

18) Can the town insist that the applicant address and resolve the noise impact concerns?

A condition will be included within the Site Plan Agreement whereby *"The owner agrees to implement the recommendations outlined in all studies forming part of the Approved Site Plan, including transportation impact study, stormwater management and functional servicing report, land use compatibility study, noise feasibility study, significant woodlands assessment or arborist's report. Further the Owner agrees to modify the site plan as required to reflect the final approved studies."*

19) How are warehousing uses located in the Town?

Warehouse uses are a less intense use compared to other employment uses such as manufacturing, fabricating and uses with outdoor storage. The permissions for the warehouse use on the west side of Winston Churchill Boulevard preceded the land use permissions for residential, this dates back to the 1960s.

Warehouses are typically used as a transition to more intense employment uses. The site-specific regulations for the subject lands relating to the height and location of loading areas are intended to mitigate the impacts of the employment uses east of Winston Churchill Boulevard, on the residential properties in the vicinity.

20) How can Council approve these applications when there are still gaps within the traffic and noise report?

The approval was conditional upon gaps in the traffic and noise report being addressed and the applicant providing additional mitigation that may be required as a result of updated studies recognizing the full capacity of the sites. Council imposed the following condition on both developments:

"The Owner shall evaluate the ultimate operating condition of the site, based on full build-out, and identify any required traffic, noise and vibration mitigation measures, prior to final approval of the site plan. This evaluation shall be reviewed by the Town's peer review consultants at the expense of the Owner. Installation of any mitigation measures identified and required by the evaluation shall be incorporated into the final plans and studies and implemented prior to occupancy of any of the proposed buildings."

Final approval will not be granted until staff, and the peer reviewers, are satisfied that the traffic and noise reports address all outstanding issues and that any required mitigation measures are shown on plans. Through the site plan agreement, a clause will be included to ensure that the mitigation measures are constructed prior to the occupancy of the buildings.

21) What did the peer reviewer conclude on potential emissions generated by the development?

The peer reviewer concluded *"the potential for air quality impacts from the respective proposed facility as minor and insignificant at nearby sensitive receptors. Additionally, the significant sources at both facilities are vehicle emissions and combustion equipment for comfort heat. Dillon recommends that the addition of minor facilities with vehicular and combustion emissions is unlikely to significantly change the composition (i.e. which chemical species are emitted) or quantity of air emissions to the Airshed. Dillon recommends that these proposed facilities are not significant when considered in the context of the Clarkson Airshed Study."*

The peer reviewer could not access the cumulative impact for both developments as the two studies did not present the results in a way that was easily comparable, but recommended that when considering the nature of the proposed facilities and the expected emissions, the potential for cumulative impacts is low.

22) Can a noise wall be constructed along the west and south property lines?

A noise wall along the west and south property lines will only be required if the noise study determines it is needed.

23) How will the impact on Acacia Court residents be mitigated during sanitary sewer construction?

The sanitary sewer construction is under the jurisdiction of Halton Region. The Region, in its review of the proposal, included the following conditions to address construction impacts and are summarized below:

- the submission of a work plan to address the timing of the construction operations, details on construction methods, sewer excavation, paving operations, landscaping restorations, traffic

control, resident disruptions, sewer lateral "switchovers" and methods for replacing a "live" sanitary sewer

- a pre-condition survey of any existing buildings, existing landscape features, fences, structures, etc. that are adjacent to the proposed sanitary sewer and that could be affected by its construction
- a construction vibration study with recommendations related to reducing/minimizing vibration impacts from construction activities
- a landscape plan to address restoration of disturbed areas (including the Town's park and walkway)
- the requirement to restore the Acacia Court right-of-way where it has been impacted by development, including fully repaving the road (as opposed to patching); repairing curbs and boulevards, driveway repairs and landscaping of boulevards.

24) What upgrades are proposed to Winston Churchill Blvd in view of these site plan applications?

Winston Churchill Boulevard (Regional Road 19) operates as a boundary road between Peel and Halton Regions and is operated and maintained by Peel Region, as per a Council approved Boundary Road Agreement between the two Regions.

The road has a right-of-way width of 41.5 m (20.75 m from the centreline of the road) and both Halton Region and Peel Region have advised that additional land will be required to allow for new southbound right turn lanes and northbound left turn lanes, with centre medians. The Region of Peel will require a review of the proposed functional design and the signalization of intersections.

Increasing the pavement width to four lanes is not in Peel or Halton Region's capital budget at this time.

25) Did the town review any potential impacts on wildlife at this site?

Impacts on wildlife is not reviewed as part of the site plan process authority.

26) What are the next steps related to this site plan development?

The site plan application is currently conditionally approved. The applicants are required to address all outstanding issues/conditions prior to final approval. Any updated materials received will be posted on the Town's website.
