



## **STAFF REPORT**

**TO:** Committee of Adjustment

**FROM:** Matt Ellis, Senior Planner

**SUBJECT:** **B014/24**, DAS Developments Corporation  
PART LOT 33, CONCESSION 3  
Municipal Address: 88 and 176 Lyons Court  
Total of 41 Easements to Support the Create the Creation of Seven (7) Lots

**DATE:** May 15, 2024

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### **A. LANDS SUBJECT TO THE APPLICATION:**

The subject lands are located on the south side of Mosley Street between the two roundabouts with Highway 26 and Beachwood Road/Lyons Court. The subject lands are legally described as PART LOT 33, CONCESSION 3, Town of Wasaga Beach, County of Simcoe and are municipally addressed as 88 and 176 Lyons Court. The subject lands have a frontage of approximately 191.29 metres (627.59 ft.) on Mosley Street, a frontage of approximately 582.66 metres (1,911.62 ft.) on Lyons Court, an irregular depth and an area of approximately 15.07 hectares (37.24 acres).

### **B. PURPOSE AND EFFECT:**

An application for Consent-Easements (B01424) has been submitted by MHBC Planning Inc. on behalf of DAS Development Corp., owner of the subject lands. The proposed easements in this application (the severed lands) are within the retained lot as well as some parts of the severed lots in Consent applications B00724 through B01324. The retained lands this application are the severed lots in Consent applications B00724 through B01324.

Planning staff also notes the lands subject to this Consent application (B01424) are also subject to the following previous or currently proposed applications:

- Consent application B/18/23 to create the lot which accommodates the existing Gateway Playtime Casino (as the severed lot of that application), conditionally approved by the Committee of Adjustment on September 20, 2023.
- Site Plan Control application SP08/23 to permit the development of three restaurants, two hotels, a gas bar and convenience store and a multi-unit retail building on a single lot, conditionally approved on January 4, 2024.
- Currently proposed Consent applications B00724 through B01324 to create a total of seven (7) lots to accommodate the above noted land uses and future development on separately conveyable lots. These applications are discussed in a separate staff report.

- Currently proposed Minor Variance applications A01424-A01724 and A01924-A02124.

Consent application B01424 would create a total of 41 easements to accommodate servicing and access including, but not limited to stormwater pipes, driveway access, sewers, watermain, gas, hydro and telecommunications. Planning staff notes the sole purpose of this Consent application is to secure the rights to the private infrastructure works that would be required if the overall land holdings were severed into smaller separately conveyable lots in Consent applications B00724 through B01424.

The severed and retained lots of Consent Applications B01823 and B00724 through B01424 is shown on the attached Severance Sketches.

### **C. COMMENTS:**

At the time of the writing of this report, the following comments have been received. Planning staff will inform the Committee should additional comments be received prior to the meeting. The Committee shall have regard for all comments received prior to making a decision on the applications.

<b><u>Submitted From:</u></b>	<b><u>Comments:</u></b>
<b>Public Works Department</b>	The Town's Public Works/Engineering Department does not oppose the application, subject to the formal comments outlined in 'Appendix 1'.
<b>Enbridge Gas</b>	Enbridge Gas does not object to the proposed application(s). However, Enbridge reserves the right to amend or remove development conditions. A copy of the formal comments are provided as 'Appendix 2' of this staff report.
<b>Wasaga Distribution Inc. (WDI)</b>	WDI has reviewed the proposal and have no objections to its approval. The Developer is required to consult with WDI to ensure that hydro servicing requirements are understood and accommodated early in the general servicing design stage. A copy of the formal comments can be found as 'Appendix 3' of this staff report.
<b>Nottawasaga Valley Conservation Authority (NVCA)</b>	The NVCA has reviewed the consent application based upon our mandate and policies under the Conservation Authorities Act. Given the comments as contained within 'Appendix 4' of this report, the NVCA has no objections to the approval of the application.

<b>Ministry of Transportation (MTO)</b>	Formal comments from the MTO were not received at the time of this staff report but are anticipated prior to the Committee of Adjustment meeting.
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No other comments were received at the time of writing this staff report.

#### **D. RECOMMENDATION:**

In consideration of the foregoing, based on the above, the Planning Department supports application **B014/24**, subject to the following conditions being applied:

1. THAT the applicant provides a deposited reference plan, said reference plan to show all of the parcel to be severed.
2. THAT the applicant shall pay to the Town of Wasaga Beach any additional costs and expenses incurred as a result of the review and approval of this application.
3. THAT Consent applications B00724 through B01324 be approved and the conditions of those Consent be completed.
4. THAT all conditions of this decision be fulfilled and the documents presented to the Planning Department for issuance of the Certificate of Consent within a period not to exceed 24 months from the date of decision.

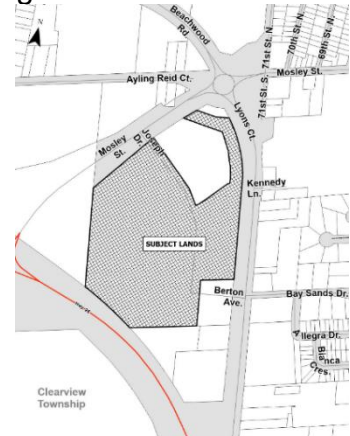
#### **E. SUBJECT SITE:**

The subject lands are designated as District Commercial in the Town of Wasaga Beach Official Plan and zoned District Commercial (CD) and District Commercial Hold (CD-H) in Town of Wasaga Beach Comprehensive Zoning By-law 2003-60 as amended.

The lands are located south of Mosley Street, between the roundabouts with Beachwood Road/Lyons Court and Highway 26, as shown in Figure 2.

Although no site visit was conducted for these applications, Planning Staff is familiar with the subject lands through previous Consent application B01823 that was conditionally approved by the Committee on September 20, 2023 and Site Plan Control application SP08/23 that was conditionally approved by the Director of Planning on January 4, 2024. The lands subject to these applications are currently vacant. However, the lands that contain the Playtime Casino and Match Eatery operated by Gateway Entertainment Limited and the associated parking lot were severed from the subject lands via Consent

**Figure 2 – Site Location**



application B01823 that was approved with conditions by the Committee on September 20, 2023. The surrounding area primarily consists of vacant lands, two campgrounds and lands developed with single-detached dwellings. These surrounding lands are zoned District Commercial (CD), District Commercial Hold (CD-H), Service Commercial Hold (CS-H) Local Commercial (CL), Local Commercial Hold (CL-H) and Residential Type 1 (R1) Comprehensive Zoning By-law 2003-60.

The subject lands are located in an area that is regulated by the Nottawasaga Valley Conservation Authority (NVCA).

## F. ANALYSIS:

This section provides a summary of Planning staff's review of the relevant planning legislation and policies.

### **Planning Act, R.S.O. 1990, c. P.13**

The *Planning Act* provides a framework for municipalities within Ontario to develop Official Plans and Zoning By-laws, and also prescribes a framework and criteria through which land division such as by consent must be considered. Section 53(12) provides that in determining whether consent is to be given, there shall be regard to Section 51(24) of the *Planning Act* which provides a list of 13 criteria that planning authorities shall have regard for when considering the subdivision of land. The specific criteria under Section 51(24) of the *Planning Act* has been evaluated below:

- (a) The effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;

**Staff Comment:** No identified constraints, natural or cultural heritage areas are identified on the subject lands and the lands are located within a Settlement Area. Consent application B01424, if approved, would secure access to municipal services for each of the severed lots created in Consent applications B00724 through B01324. The NVCA has confirmed that they have no concerns with the hazard on the property, as wetland interference concerns have been addressed in a previous *Planning Act* application (SP08/19) regarding development on the proposed severed lands. Planning staff, therefore, have no concerns with respect to Provincial interests outlined under Section 2 of the Act.

- (b) Whether the proposed subdivision is premature or in the public interest;

**Staff Comment:** The proposed easements in Consent application B01424 is considered in the public interest as it would secure the necessary municipal infrastructure to facilitate the creation of the severed lots in Consent applications B00724 through B01324 that would eventually accommodate proposed land uses which contribute to achievement of a Complete Community. As the proposed easements would facilitate the efficient use of existing and future municipal services, the proposed easements are in the public interest and are not premature.

- (c) Whether the plan conforms to the Official Plan and adjacent Plans of Subdivision, if any;

**Staff Comment:** A review of applicable policies from the Town's Official Plan is provided in this staff report, which indicates general conformity.

- (d) The suitability of the land for the purposes for which it is to be subdivided;

**Staff Comment:** The subject lands are designated as District Commercial in the Town of Wasaga Beach Official Plan and zoned District Commercial (CD) and District Commercial Hold (CD-H) in the Town's Zoning By-law. The easements proposed in Consent application B01424 would facilitate the development of the land uses within the severed lots of Consent applications B00724 through B01324, which are permitted within the District Commercial designation of the Official Plan and CD zone of the Zoning Bylaw.

- (d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;

**Staff Comment:** Not applicable; these applications are for easement purposes only that would facilitate the development of future commercial uses.

- (e) 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;

**Staff Comment:** The proposed easements in Consent application B01424 would accommodate access over three privately-maintained streets (Joseph Street, Berton Avenue and a currently un-named street), constructed in accordance with applicable Engineering Standards. The intersections of Joseph Drive/Mosely Street and Berton Avenue/Lyons Court were previously reviewed and approved by the Ministry of Transportation (MTO). Planning Staff, therefore have no concerns with this requirement of the *Planning Act*.

- (f) The dimensions and shapes of the proposed lots;

**Staff Comment:** The proposed severed lands in Consent application B01424 are sufficiently sized to accommodate the future private roads that would provide access to the severed lots in Consent applications B00724 through B01324, in accordance with Municipal standards. Planning staff, therefore, have no concern with this requirement of the *Planning Act*.

- (g) 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;

**Staff Comment:** Each of the proposed retained lots in this application (B01424) are currently the subject of Site Plan Control application SP08/23 that was conditionally approved on January 4, 2024. This conditional Site Plan approval addresses matters pertaining to Town interests, such as site design to ensure the safety of future patrons and employees of the proposed land uses, stormwater management, etc. on the retained lots.

Consent application B01424, if granted, would secure the necessary future infrastructure and access rights that serve the future land uses on the proposed severed lots.

- (h) Conservation of natural resources and flood control;

**Staff Comment:** The subject lands are not identified within the Town of Wasaga Beach Official Plan as being designated within a Natural Heritage System area or Natural Hazard area. The subject lands are regulated by the Nottawasaga Valley Conservation Authority (NVCA). The NVCA has noted that their mapping illustrates a wetland interference hazard on the property. The NVCA have confirmed that they have no concerns with the wetland hazard on the property, as the wetland interference has been addressed in previous *Planning Act* applications for the subject lands.

- (i) The adequacy of utilities and Municipal services;

**Staff Comment:** The proposed easements would provide utilities and Municipal services to the severed lots proposed in Consent applications B00724 through B01424. Comments of no objection were received by WDI on April 29, 2024 and Enbridge Gas on May 2, 2024. No further comments have been received from external utility providers indicating concerns regarding the proposal.

- (j) The adequacy of school sites;

**Staff Comment:** No school board comments/concerns have been received, within the context of this application.

- (k) The area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;

**Staff Comment:** Not applicable within the context of Consent application B01424.

- (l) The extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy;

**Staff Comment:** As the proposed easements in Consent application B01424 would accommodate utilities and other Municipal services for the severed lots of Consent applications B00724 through B01324, Planning staff have no concern with this requirement of the *Planning Act*.

- (m) 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 designated under subsection 41 (2) of this Act or subsection 114 (2) of the *City of Toronto Act, 2006*. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).

**Staff Comment:** Not applicable within the context of this application.

Planning staff have evaluated the applications for consent in the context of the criteria outlined under the *Planning Act*, and recommend that the applications for consent satisfy the criteria of 51(24) of the *Planning Act*.

## **Provincial Policy Statement (2020)**

The Provincial Policy Statement (PPS) 2020, provides policy direction on matters of provincial interest related to land use planning and development. The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. The policies direct growth to settlement areas and Wasaga Beach is recognized as a settlement area in the County of Simcoe Official Plan. The policies state that planning authorities shall identify and promote opportunities for intensification, taking into consideration available infrastructure and public services.

### **1.0 Building Strong Healthy Communities**

Ontario is a vast province with urban, rural, and northern communities with diversity in population, economic activities, pace of growth, service levels and physical and natural conditions. Ontario's long term prosperity, environmental health and social well-being depend on wisely managing change and promoting efficient land use and development patterns. Efficient land use and development patterns support sustainability by promoting strong, livable, healthy and resilient communities, protecting the environment and public health and safety, and facilitating economic growth.

#### **1.1.3 Settlement Areas**

Settlement areas are urban areas and rural settlement areas, and include cities, towns, villages and hamlets. Ontario's settlement areas vary significantly in terms of size, density, population, economic activity, diversity and intensity of land uses, service levels, and types of infrastructure available. In accordance with Section 1.1.3.1 of the PPS, settlement areas shall be the focus of growth and development.

**Staff Comment:** The subject lands are located within a Settlement Area. The proposed easements in Consent application B01424 would ensure future access to Municipal water and sanitary sewer services for the severed lots in Consent applications B00724 through B01324.

1.1.3.2 Land use patterns within settlement areas shall be based on densities and a mix of land uses which:

- a) Efficiently use land and resources;
- b) Are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion;
- c) Minimize negative impacts to air quality and climate change, and promote energy efficiency;
- d) Prepare for the impacts of a changing climate;
- e) Support active transportation;
- f) Are transit-supportive, where transit is planned, exists or may be developed; and
- g) Are freight supportive.

**Staff Comment:** The subject lands are located within a Settlement Area. The proposed easements in Consent application B01424 would ensure future access to Municipal water and sanitary sewer services for the severed lots in Consent applications B00724 through B01324.

## **2.0 Wise Use and Management of Resources**

Ontario's long-term prosperity, environmental health, and social well-being depend on conserving biodiversity, protecting the health of the Great Lakes, and protecting natural heritage, water, agricultural, mineral and cultural heritage and archaeological resources for their economic, environmental and social benefits.

2.1.1 Natural features and areas shall be protected for the long-term.

**Staff Comment:** No natural heritage features are identified on the subject lands.

## **3.0 Protecting Health and Safety**

Ontario's long-term prosperity, environmental health and social well-being depend on reducing the potential for public cost or risk to Ontario's residents from natural or human-made hazards. Development shall be directed away from areas of natural or human-made hazards where there is an unacceptable risk to public health or safety or of property damage, and not create new or aggravate existing hazards. Mitigating potential risk to public health or safety or of property damage from natural hazards, including the risks that may be associated with the impacts of a changing climate, will require the Province, planning authorities, and conservation authorities to work together.

**Staff Comment:** Based on Simcoe County GIS imagery, an unevaluated wetland is located on the subject lands. The NVCA have noted that they have no concerns under PPS, 2020. Further the NVCA have confirmed that the wetland interference has been previously addressed through Planning Act applications within the surrounding neighbourhood area.

The subject lands are not located within an area containing identified Human-made hazards. Staff have no concerns with respect to Section 3.0 of the PPS.

## **A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020**

A Place to Grow – Growth Plan for the Greater Golden Horseshoe, provides direction for growth and building complete communities. Complete communities are those which are well designed, compact, offer transportation choices, accommodate people at all stages of life, have a variety and mix of housing, a good range of jobs, and easy access to stores and services. It is submitted that the application for severance conforms to A Place to Grow policies, as the lands are located in proximity to public schools, commercial areas, and medical offices. The subject lands are located approximately 400 metres from bus stops near the intersections of Ramblewood Drive/Lyons Court and Mosely Street/70<sup>th</sup> Street North.



**Staff Comment:** The proposed easements in Consent application B01424 would secure the required infrastructure to facilitate the development of future commercial land uses on the severed lots of Consent applications B00724 through B01424 that would, when completed, contribute to a Complete Community as discussed above. Therefore, Consent application B01424, if granted, will conform to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (August 2020).

### **Simcoe County Official Plan**

The subject property is designated as “Settlement” in the Official Plan for the County of Simcoe. One of the objectives of the Settlement Designation is to develop a compact urban form that promotes the efficient use of land and provision of water, sewer, transportation and other services. The proposed easements in Consent application B01424 would secure access to Municipal water and sanitary services for the severed lots in Consent applications B00724 through B01324.

**Staff Comment:** Based on the above, Planning staff recommend that the application for Consent conforms to the Simcoe County Official Plan.

### **Town of Wasaga Beach Official Plan**

The subject site is designated District Commercial within the Town of Wasaga Beach Official Plan. Consent application B01424 would secure access to required infrastructure that serves the commercial land uses that are proposed on the severed lands of Consent applications B00724 through B01424.

Applications for consent must also conform to Section 19.4 of the Official Plan. Planning staff have reviewed the policies as follows:

- 19.4.2      *Consents shall only be permitted where it can be shown that a registered Plan of Subdivision is not necessary for the proper and orderly development of the Municipality.*

**Staff Comment:** The purpose of the easements in Consent application B01424 is to secure the required infrastructure for matters such as water/sanitary sewer services, stormwater management and access for the proposed severed lots in Consent Applications B00724 through B01324 (discussed in a separate staff report). It is the opinion of Planning staff that easements proposed in Consent application B01424 negates the need for the severed lots in Consent Applications B00724 through to be created through a Plan of Subdivision.

- 19.4.3      *a) Consents should be granted only in areas where undue extensions of Municipal services would not be required;*

**Staff Comment:** As the proposed easements in Consent application B01424 would accommodate the provision of Municipal water and sanitary sewer and storm sewers for the severed lots of consent applications B00724 through B01324, Planning staff have no concerns with this requirement of the Town’s Official Plan.

*b) Consents should only be granted when the land fronts on an existing public road, maintained to Municipal standards of construction;*

**Staff Comment:** The intent of this policy is to ensure that lots are created only in situations where adequate access is provided/maintained in accordance with Municipal standards. According to the Planning Justification Report submitted with the applications, the private roads within the proposed easements of Consent application B01424 have been designed to meet Municipal standards. As the easements proposed in this Consent application would provide the mutual access rights over the said private roads that connect to the adjacent Municipal road network (Mosely Street and Lyons Court), Planning staff have no concerns with this requirement of the Town's Official Plan.

*c) Consents should have the effect of infilling existing developed areas, rather than unduly extending such areas;*

**Staff Comment:** The easements proposed in Consent application B01424 would secure the necessary infrastructure that facilitates the development of the subject land holdings as separately conveyable lots. In the opinion of Planning staff, Consent Application B01424 is consistent with this policy.

*d) Consents should recognize and have regard for the character of established residential neighborhoods and should take into consideration the impact and compatibility of the proposed development with the existing built form and fabric of an area;*

**Staff Comment:** Not applicable within the context of Consent application B01424.

*e) The size of any parcel of land created by such a consent should be appropriate for the use proposed considering the public services available, soil conditions, surrounding development, and neighbourhood character, and in no case shall any parcel be created which does not conform to the provisions of the comprehensive Zoning By-law;*

**Staff Comment:** The proposed easements in Consent application B01424 are sufficiently sized to accommodate the infrastructure (i.e. internal access roads, sanitary sewer, stormwater management, water, etc.) they are intended for. Consent application B01424, therefore, complies with this policy.

*f) Direct access to and from arterial and collector roads should be controlled and properly designed and residential lots should, where possible, have access only from local roads;*

**Staff Comment:** The easements proposed in Consent application B01424 would, if

granted, provide vehicular access over private roads designed in accordance with applicable Municipal standards. Furthermore, the intersections of Joseph Drive/Mosley Street and Berton Avenue/Lyons Court have previously been reviewed and approved by the MTO. Planning staff, therefore, have no concerns with this requirement of the Town's Official Plan.

*g) Consents should not be granted for land adjacent to a road from which access is to be obtained, where a traffic hazard would be created because of limited sight lines on curves or grades;*

**Staff Comment:** As mentioned earlier, both the Joseph Drive/Mosely Street and Berton Avenue/Lyons Court intersections within the severed lands (easements) of Consent application B01424 have been reviewed and approved by the MTO. Therefore, Planning staff does not anticipate that a traffic hazard would be created by Consent application B01424.

*h) Consents should not be granted if the effect of granting the severance would prejudice the future development of an area. In particular, consents should not be granted if the effect is to exploit the frontage of the lands with little regard for the remainder of the property. In addition, consents in commercial and tourism designations may not be granted if the division of the property will prevent the efficient and appropriate present or future development of the property.*

**Staff Comment:** not applicable within the context of Consent application B01424.

*i) Consents for new uses wholly within Natural Heritage System Category 1 Lands shall not be granted. Prior to consideration of a consent application within Natural Heritage System Category 2 Lands, an Environmental Impact Study is required to the satisfaction of the Town.*

**Staff Comment:** The subject lands are not located within any Natural Heritage System Category 1 or Category 2 lands, as per The Town's Official Plan.

In consideration of the comments above, Planning staff are satisfied that the proposed lot creation is consistent with the direction of the Town of Wasaga Beach Official Plan.

### **Town of Wasaga Beach Comprehensive Zoning By-law**

The subject lands are zoned District Commercial (CD) and District Commercial Hold (CD-H) within Town of Wasaga Beach Comprehensive Zoning By-law 2003-60, as amended. Minimum lot frontage and area requirements do not apply within the Context of Consent application B01424, as it does not propose the creation of any new lots.

## H CONCLUSION

In consideration of the above, the Planning Department supports Consent application B01424 for the lands legally described as PART LOT 33, CONCESSION 3. Should the Committee choose to approve application **B01424**, Planning staff recommend that this approval also be subject to the above noted conditions.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Matt Ellis', with a stylized flourish at the end.

Matt Ellis, BES, RPP, MCIP

Senior Planner

Appendix 1 – Public Works/Engineering Comments

Appendix 2 – Enbridge Gas Comments

Appendix 3 – Wasaga Distribution Inc. (WDI) Comments

Appendix 4 – Nottawasaga Valley Conservation Authority (NVCA) Comments

Severance Sketch  
Proposed Severed Lands (Easements)

