



# Township of Scugog Report

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**Report Number:** DEV-2024-029

**Prepared by:** Valerie Hendry, Manager of Planning

**Department:** Development Services Department

**Report To:** Planning and Community Affairs Committee

**Date:** September 16, 2024

**Reference:** Strategic Direction 5: Complete Community: Strengthen our communities to be inclusive, healthy, safe, connected and engaged.

**SD5 Objective 2: Create a vibrant, safe and healthy community**

**Report Title:** Request for Township Endorsement of Minister Zoning Order – Avenu Properties Corp. (Castle Harbour Drive) - Part Lots 19 and 20, Concession 7, Geographic Township of Reach

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## Recommendations:

1. **THAT** Report DEV-2024-29 Request for Township Endorsement of Minister Zoning Order (MZO) – Avenu Properties Corp. (Castle Harbour Drive) - Part Lots 19 and 20, Concession 7, Geographic Township of Reach Report Title, be received; and
2. **THAT** Council endorses the MZO with a letter of support from the Township to accompany the developer's application to the Minister of Municipal Affairs and Housing, once the following conditions have been fulfilled to the Township's satisfaction:
  - a. The submission and acceptance of an updated Environmental Impact Statement/Natural Heritage Evaluation and Flood Mitigation Study to determine the limits of development;

- b. The submission and acceptance of an updated Draft MZO that addresses zoning limits of development, permitted uses, maximum density and gross floor area, and performance standards;
  - c. The submission and acceptance of other technical studies including a Financial Impact study, Hydrogeological and Geotechnical studies, updated Functional Servicing Options and Infrastructure study, updated Archaeological Study (including a Cultural Heritage Landscape Assessment), updated Planning Justification Report, and Land Use Compatibility study;
  - d. The submission of a revised concept plan that reflects the findings of the above study findings and limits of development, together with:
    - i. revisions to the concept plan that reflect the Township’s requirements for the right-of-way and municipal stormwater management drain.
    - ii. confirmation that the Region will enter into a Responsibility Agreement for private communal services or alternative to the satisfaction of the Ministry of Conservation, Energy and Parks, and that any alternative does not include a Township responsibility.
    - iii. confirmation from the Region that a second entrance to Simcoe Street will be permitted and if not, a full traffic analysis be undertaken to assess the impacts of one access point and the necessary upgrades required to the surrounding road network.
  - e. That staff be authorized to hold a public meeting once the additional information has been submitted for staff and agencies to review and comment;
  - f. That the Township undertake meaningful consultation with Indigenous Peoples, such as the Mississaugas of Scugog Island First Nation; and
3. **THAT** Council include in the letter to the Minister of Municipal Affairs and Housing a request that any MZO issued for the subject lands include a deeming provision deeming the MZO to be a municipal zoning by-law to give the Township rather than the Minister the control to amend the permitted uses and performance standards in the MZO should future amendments be required.

**OR**

4. **THAT** Council deny the MZO by Avenu Properties Corp., and that the proposed development proceeds through a municipal planning process.
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## **Executive Summary:**

This report was prepared in response to a request from Avenu Properties to the Township to support their request for a Minister Zoning Order (MZO) to permit the uses and establish the provisions for a development concept of up to 600 dwelling units and commercial uses within a number of different building styles. In response to a Council resolution in June 2024, staff have reviewed the developer's MZO Briefing and have prepared a staff recommendation report for Council's consideration.

Key elements of this report are to inform Council and residents of the typical zoning by-law amendment process compared to the MZO process prepared under the Provincial Zoning Order Framework.

This report also summarizes Township, Region, Mississaugas of Scugog Island First Nation, and public comments about the proposal. Reviews of the MZO Briefing were also undertaken by qualified professionals for the various reports submitted in support of the concept.

Increasing public interest, as news of the project spread, has also resulted in significant feedback being received by the Township. Every submission received was reviewed and considered in the discussion and recommendations of this Report in an effort to balance the public interest with a planning request by a private developer.

Despite a large MZO Briefing document prepared by the applicant with some supporting studies, the internal Township reviews, augmented by external experts acting on behalf of the Township, confirmed a number of outstanding threshold issues that prevent staff from recommending that Council endorse the MZO request at this time.

Most importantly, the limits of development need to be established with the findings of a current Environmental Impact Study and Flood Mitigation Study to identify appropriate areas for development that avoid natural heritage features and their buffers as well as low lying areas that may be subject to flooding.

Endorsement of the MZO as currently proposed will result in Council relinquishing its authority to apply applicable land use policies including those in the Township's own Official Plan as the Minister needs only to consider Provincial policies. After endorsement and the potential approval of the MZO, the Township will have no control over the site's land uses or ensuring that the community benefits proposed are delivered.

An MZO can be an effective planning tool when accompanied with the necessary background studies to ensure the community's preferred land use outcome and a transparent process has been achieved when being considered and endorsed by Council. However, in this instance the lack of policy conformity, insufficient supporting information, and legitimate

concerns from the community and MSIFN, a local zoning by-law amendment process would be a more appropriate process to respond to matters raised. A well-coordinated application with the necessary supporting information would likely be as efficient as the current MZO process and more likely would reduce local concerns. If the MZO request is pursued by the developer, at the very least, staff recommend that complete supporting reports be submitted for Council's review and endorsement.

Furthermore, it is Township policy that public consultation be an integral component of any land use planning process. On this basis, before making any planning decision, Council shall be satisfied that:

- a) Enough information to enable a person to reasonably understand the nature of the proposal and its impacts is available prior to any public meeting;
- b) All public and agency comments have been assessed and analyzed by Staff; and,
- c) Council's decision will appropriately balance the overall public interest against the private interests expressed in the application.

Therefore, staff cannot support the proposal as submitted at this time. The results of the review process have many unanswered questions and missing information that are considered fundamental to the principles of development that need to be resolved prior to the consideration of an MZO request. Any downstream planning approvals, such as a draft plan of subdivision or site plan approval, are intended to implement the zoning by-law regulations including land uses and performance standards. The requested additional information is considered critical to determine the zoning regulations.

Staff recommend that before Council submit their endorsement of the MZO to the Minister of Municipal Affairs and Housing, that the following conditions be fulfilled to the Township's satisfaction:

- a. The submission and acceptance of an updated Environmental Impact Statement/Natural Heritage Evaluation and Flood Mitigation Study to determine the limits of development;
- b. The submission and acceptance of an updated Draft MZO that addresses zoning limits of development, permitted uses, maximum density and gross floor area, and performance standards;
- c. The submission and acceptance of other technical studies including a Financial Impact study, Hydrogeological and Geotechnical studies, updated Functional Servicing Options and Infrastructure study, updated Archaeological Study (including a Cultural Heritage Landscape Assessment), updated Planning Justification Report, and Land Use Compatibility study;

- d. The submission of a revised concept plan that reflects the findings of the above study findings and limits of development, together with:
  - i. revisions to the concept plan that reflect the Township’s requirements for the right-of-way and municipal stormwater management drain.
  - ii. confirmation that the Region will enter into a Responsibility Agreement for private communal services or alternative to the satisfaction of the Ministry of Conservation, Energy and Parks, and that any alternative does not include Township responsibility.
  - iii. confirmation from the Region that a second entrance to Simcoe Street will be permitted and if not, a full traffic analysis be undertaken to assess the impacts of one access point and the necessary upgrades required to the surrounding road network.
- e. That staff be authorized to hold a public meeting once the additional information has been submitted for staff and agencies to review and comment;
- f. That the Township undertake meaningful consultation with Indigenous Peoples, such as the Mississaugas of Scugog Island First Nation.

Attachment 1 is a copy of Avenu Properties Proposed Concept Plan 2024

Attachment 2 is a copy of the Existing Approved Draft Plan of Subdivision for the Subject Lands

Attachment 3 is a copy of the Draft MZO by-law and schedule provided by Developer, June 2024.

Attachment 4 is a copy of the Draft MZO mapping with limits of development

Attachment 5 is a copy of the Draft Council MZO Resolution June 2024 prepared by Developer.

Attachment 6 is a copy of the examples of other municipal protocols to consider MZO requests.

Attachment 7 is a copy of public comments received by the Township September 4, 2024

Attachment 8 is a copy of the letters provided by the Mississaugas of Scugog Island First Nations, dated March 27, 2024 and August 30, 2024.

Attachment 9 is a copy of the table provided in MSIFNs letter dated August 30, 2024 with Township comments.

Attachment 10 is a summary of agency comments (including key correspondence letters).

Attachment 11 is a map of the Official Plan designations for the Subject Site.

Attachment 12 is a map of the current Zoning for the Subject Site.

## **1.0 Background:**

At the June 24, 2024 Council meeting, Council directed the following:

*THAT Council refer resolution CR-2024-153 to planning and development staff for study of the proposal and report back to the first PCA meeting in September.*

This report is to address the June 24, 2024 Council resolution above by providing background and recommendations based on internal and external professional advice. This is not a typical planning application process, and this report has been written to provide additional context to the Minister Zoning Order process, assess the applicant's supporting information to date, identify matters for further consideration, and provide a professional planning opinion to assist Council with its decision to support the proposed Minister Zoning Order.

This report has been prepared by Township planning staff in consultation with SGL Planning and Design Inc., after reviewing the information submitted to date, together with comments already received by the Township from stakeholders and the public. When undertaking reviews and making recommendations to Council, the planner's role is to balance the public interest with the proposed development. The planner's role and subsequent role of Council when making decisions is enshrined in Section 2 of the Planning Act where Council shall have regard to matters of provincial interest such as the resolution of planning conflicts involving public and private interests. Without full and complete information to confirm consistency with Provincial policy and the development's response to the concerns raised, this planning review is unable to make a recommendation for Council to support the request in its current form.

### **1.1 What is Zoning?**

A zoning by-law regulates the use and built form on lands in a manner to implement the goals and policies of an Official Plan and contains specific requirements that are legally enforceable. All new development must comply with the regulations of the Township's current by-law in force and effect. A by-law controls land use by establishing how land may be used, where certain buildings and structures may be situated, the types of buildings that may be permitted and their use, and more detailed requirements including lot sizes, building heights and densities.

The Township has a comprehensive zoning by-law (14-14) that separates all land within the municipality into different land use zones, illustrated on detailed maps. The by-law sets out the permitted uses and required standard in each separate zone.

A zoning by-law is an important planning tool and serves the following key purposes:

- Enacting the objectives and policies of the Official Plan, in a manner consistent with policies of the Region and Province;
- Providing a legal and precise way of managing land use and development; and
- Protecting a municipality from conflicting land uses within the community.

If someone seeks to develop their property in a way that conflicts with the zoning by-law, it is possible to apply for a zoning by-law amendment ('rezoning'). However, Council can consider a change only if the proposed use still complies with the Official Plan.

A Council decision regarding a zoning by-law amendment can only be appealed by the applicant and external agencies as defined in the Planning Act (e.g. utilities, Durham Region, etc.).

The full Provincial guide to The Planning Act can be viewed at:

<https://www.ontario.ca/document/citizens-guide-land-use-planning/planning-act>

In addition to making decisions on planning applications and preparing an Official Plan, a municipality is responsible for the preparation of a zoning by-law, the purpose of which is to establish the rules and regulations that control development within the municipality.

Municipalities are responsible for the public circulation of information on a proposed zoning by-law or amendment prior to its passing, in addition to the organization of at least one public meeting at which every attendant must be provided the opportunity to speak.

Council can pass, change or reject a proposed by-law. A proposed by-law is evaluated on criteria including its consistency with Provincial policies, Township and Region Official Plans, compatibility with adjacent land uses, and how appropriate the proposed purpose is for the land.

In the consideration of a zoning by-law, Council's decision must be consistent with the policies of the Provincial Policy Statement (PPS) issued under the *Planning Act*. Zoning by-laws must also conform with any applicable provincial plan, such as the Greenbelt Plan, and the Growth Plan.

## 1.2 Overview of the MZO Process

The Planning Act enables the Minister of Municipal Affairs and Housing to control how land is used in the province. Zoning orders can protect important provincial interests or help with large projects that might face delays. If a minister’s zoning order (MZO) conflicts with a local bylaw, the MZO prevails. The local by-law still applies in other ways if not expressly addressed in the MZO by-law.

[In the Provincial Guide](#), the Minister of Municipal Affairs and Housing suggests that before a municipality requests or endorses an MZO, they should:

- Talk to their communities;
- Work with the conservation authority in charge of the land; and
- Engage with Indigenous communities that might be affected.

The Minister also expects municipal requests or endorsement for an MZO to include a supporting Council resolution. Since Council meetings are usually open to the public, this helps to ensure people are aware of the request.

An MZO is issued under the authority of Section 47 of the Planning Act to directly zone lands for a specific purpose. Previous public concerns over the increasing frequency of MZOs in communities, resulted in the Province ‘rebranding’ and increasing the role of local municipalities and Indigenous Communities as part of the Minister's consideration process.

As part of Provincial changes to the Planning Act and approval processes in 2024, the Province established the Zoning Order Framework (“ZOF”) to guide how requests for zoning orders under Section 47 of Ontario’s Planning Act are submitted and considered. The ZOF has three main components:

1. Intake thresholds;
2. Submission expectations; and
3. Ministry assessment and decision-making process, including the role of public consultation.

The overarching purpose of an MZO is to fast-track the advancement of a provincial priority by permitting specific land uses on a property and establishing performance standards (e.g. building height, density, setbacks, etc). An MZO must include similar components of a local zoning by-law in terms of permitted uses and lot and built form provisions. Sometimes an MZO will take the form of a stand-alone zoning by-law with all the provisions necessary for its implementation or alternatively establish specific provisions that augment or replace in part the content of the Township’s comprehensive zoning bylaw. The MZO submitted by the developer contains site-specific provisions to implement the development concept while still



relying on applicable and relevant provisions in the Township’s comprehensive Zoning By-law 14-14, as amended.

While an MZO establishes the zoning of a site, the matters of site plan approval and building permit typically remain under the control of the Township unless otherwise directed by the Minister. In the case of this proposal, site plan control and plan of subdivision/condominium would continue to be approvals required by the Township. However, once the zoning is established, the owner has the right to develop the lands for those permitted uses.

The site’s location within the Greenbelt Plan (regardless if the site is located in a designated “Town/Village”) means that any decision of Council and/or the Minister of Municipal Affairs and Housing will need to be consistent with Provincial Policy Statement (2020) or Provincial Planning Statement (2024) as per Section 7(1) and 3(5a) issued under the Planning Act. In other words, the policies of the Provincial Policy Statement 2020/Provincial Planning Statement 2024 (after October 20, 2024) continue to apply.

The Intake Threshold described in the ZOF requires the MZO request to either have the support of Council or delivers on a provincial priority supported by a minister. Should Council not support the MZO request, then the MZO request may be supported by a Minister looking to deliver on a provincial priority(ies). It is not clear how different, and potentially conflicting priorities (e.g. housing and environment), would be considered as part of the MZO process.

The following table summarizes the Submission Expectations established under the ZOF. Note that the items on the list are discretionary and may be weighted according to the details of a particular MZO. A review of these items will be discussed in the report below. An additional column has also been included for the submission expectations of a local zoning by-law amendment (ZBA) process as described in the Zoning section above (based on a complete application) for comparison purposes:

**Table 1: Submission Expectation for an MZO and local Zoning By-law Amendment**

<b>Submission Content</b>	<b>MZO</b>	<b>Local ZBA</b>
Description of the project and how it would support governmental objectives	X	X
Map and description of the subject lands	X	X
Copy of a draft zoning order/local zoning amendment <sup>1</sup>	X	X
Description of consultation with the public and engagement with Indigenous communities	X <sup>2</sup>	X <sup>3</sup>

For municipally-supported zoning order requests:		
- evidence of municipal support for the proposed project	X	
- information related to land ownership and name of the requestor	X	X
Rationale on why the project requires ministerial zoning relief rather than following municipal planning processes	X	
Description of any licences, permits, approvals, permissions or other matters that would be required for the project after a zoning order is made	X	
Justification for the exemption of the application of provincial and local land use policies to downstream approvals, where requested	X	
Anticipated timelines related to applying for downstream approvals (for example, site plan, plan of subdivision, building permit)	X	
Anticipated timing for project completion	X	
justification for the use of any of the enhanced authorities, where requested	n/a <sup>4</sup>	
Information related to how and when servicing (water/wastewater) will be addressed	X	X <sup>5</sup>
Commitment that if a zoning order is made, the landowner will notify the minister 30 days in advance of the sale of any land it applies to	X	
Ability for the applicant or agencies to appeal decision		X <sup>6</sup>

1. Draft instrument is dependent on what process is being followed.
2. The MZO Briefing document summarizes discussions with MSFIN who have provided comments (Attachment 3), however, there is no information regarding engagement with other potentially affected Indigenous Communities (e.g. Alderville First Nation, Beausoleil First Nation, the Chippewas of Georgina Island First Nation, Curve Lake First Nation, Hiawatha First Nation, Rama First Nation, Metis Nation, etc).
3. An Engagement Plan can be required at the discretion of the Township.
4. Based on the MZO Briefing document, no enhanced authorities are being requested at this time. This would not prevent the developer from asking for enhanced authorities when they make their request to the Minister. These enhanced authorities could include site plan approval from the Ministry and associated development agreements.
5. For a local ZBA application, this information would be required together with additional information required for a complete application as outlined below.
6. There are no 3<sup>rd</sup> party (from opposed individuals) appeal rights under both the MZO and local processes.

While the decision of the Minister for an MZO needs to be consistent with Provincial policies, a decision on a ZBA by Township Council needs to be consistent with Provincial policies and conform with the local and Region of Durham Official Plans. It is not known how the Minister evaluates MZO requests using the framework above and how Section 2 of the Planning Act and Provincial policy are considered. The Minister's consideration process is less transparent than the local ZBA process. In the local ZBA process after the public meeting, a recommendation report is prepared by staff to provide an objective assessment of the application and make recommendations to Council that seek to balance private and public interests. These recommendations may then be debated by Council in an open meeting before making a decision.

While the applicant is justifying this MZO request on the basis of timing and certainty for partnerships and funding, the MZO request would also avoid the need for the proposal to conform with both the local and Region Official Plans. This distinction will be considered later in the Analysis section of this report when addressing applicable policies for the development.

While an MZO establishes the zoning of a site, the matters of site plan approval and building permit remain under the control of the Township. In addition, MZOs typically deem the zoning change to be a municipal zoning by-law to allow flexibility for future amendments during the detailed design stages of a project.

In this case, an MZO is sought to rezone the 25-hectare site for a mixed-use development, permitting up to 600 residential units comprising a variety of dwelling types, in addition to some limited commercial uses.

Thus, a municipality should carefully consider whether to endorse the use of the MZO tool to only advance provincial priorities.

### **1.3 Other Municipal MZO Consideration Process Examples**

To help guide the Township in processing the MZO request, examples or processes from other municipalities were investigated. Ideally, municipalities that had established protocols to deal with MZO requests could be an effective template for the Township. Alternatively, examples of how municipalities have dealt with specific MZO requests could also be helpful.

Municipal examples of processing MZO requests are ad hoc because of unique site contexts, the applicant's approach, and how the application is received by staff and Council. In addition, the Province has changed their approach to MZO requests several times over the last 12 months. The most recent change being the replacement of the Community Infrastructure and Housing Accelerator (CIHA) with the current Zoning Order Framework (ZOF) outlined above.

Examples of other municipal protocols are included in Attachment 6. The common theme with all examples was the attempt by the municipality to make the process more transparent and mimic a more traditional application for zoning by-law amendment at the local level.

### 1.4 Overview of the local Zoning By-law Amendment Process

This section is to provide a brief overview of the Zoning By-law Amendment (ZBA) process that would otherwise apply to the proposed development if an MZO was not being requested. This overview is being provided since the developer has stated that a primary reason for the MZO request is to avoid a lengthier local zoning by-law amendment application process.

In cases where the ZBA is consistent with the local and regional OPs, the ZBA application would be discussed with the developer in a pre-consultation meeting (optional after Bill 185 changes to Planning Act) to identify and scope the information and studies needed for staff and experts to review the application prior to making a recommendation for Council. The list of required information would be ‘shortlisted’ from the complete application policies in the Official Plans. Based on staff’s understanding of the MZO request, the site context, and the information reviewed to date, the following Table 2 lists reports and studies that would likely be required in the case of a ZBA application:

**Table 2: List of Studies/Information considered required for ZBA of the Subject Lands**

<b>Study/Information</b>	<b>Required</b>	<b>Provided</b>
Archaeology and Cultural Heritage Assessment	X	X <sup>1</sup>
Environmental Impact Study (EIS)/Natural Heritage Evaluation	X	X <sup>2</sup>
Financial Impact Study including future potential costs to Township/Region	X	
Hydrogeological Study	X	
Geotechnical Study	X	
Natural Hazard Study and Flood Impact Study	X	
Phase 1 and 2 Environmental Site Assessments and Records of Site Condition (2016 Study)	X	X
Planning Rationale/Justification Report assessing consistency with ALL applicable policies	X	X <sup>3</sup>
Servicing Options and Infrastructure Study (Functional Servicing Report) including assimilative capacity of the lake	X	

<b>Study/Information</b>	<b>Required</b>	<b>Provided</b>
Storm Water Management Report	X	
Transportation Impact Study	X	X
Tree Preservation Plan/Compensation Study	X	
Land Use Compatibility Study	X	
Cultural Heritage Landscape Assessment	X <sup>4</sup>	

1. Former report provided but needs updating to reflect revised development areas being proposed, in addition to MSIFN comments from August 30, 2024 requesting additional archeological information.
2. Former 2017 EIS provided from previous development, but the study is out of date, does not match the proposed limits of development, and may not reflect changed environmental conditions/features. MSIFN concerns noted in their August 30, 2024 letter will need to be addressed by the updated EIS.
3. The current PJR included in the MZO Brief does not address all applicable policies.
4. As requested by MSIFN in their letter dated August 30, 2024.

While the above list may seem excessive to a developer, these studies are considered critical when establishing a new and more intense land use within or adjacent to a sensitive area. The list of studies is typical for an application of this size and context. It is unclear if the Minister would require a similar level of study to inform his decision. Each study submitted is evaluated in detail in section 2.1.1 Threshold Matters of this report.

The required information is also considered necessary for the Township to not only assess its own Official Plan policies but also to ensure that Council is fulfilling its responsibilities under the Planning Act to have regard to matters of provincial interest including, but not limited to:

*a) the protection of ecological systems, including natural areas, features and functions;*

*(b-) the conservation and management of natural resources;*

*(c) the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest;*

*(d) the supply, efficient use and conservation of energy and water;*

*(e) the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;*

*(f) the minimization of waste;*

*(g) the orderly development of safe and healthy communities;*

*(h.1) the accessibility for persons with disabilities to all facilities, services and matters to which this Act applies;*

*(h) the adequate provision and distribution of educational, health, social, cultural and recreational facilities;*

*(i) the adequate provision of a full range of housing, including affordable housing;*

*(j) the adequate provision of employment opportunities;*

*(k) the protection of the financial and economic well-being of the Province and its municipalities;*

*(l) the co-ordination of planning activities of public bodies;*

*(m) the resolution of planning conflicts involving public and private interests;*

*(n) the protection of public health and safety;*

*(o) the appropriate location of growth and development;*

*(p) the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians;*

*(q) the promotion of built form that,*

*(i) is well-designed,*

*(ii) encourages a sense of place, and*

*(iii) provides for public spaces that are of high quality, safe, accessible, attractive and vibrant;*

*(r) the mitigation of greenhouse gas emissions and adaptation to a changing climate.*

While the MZO Brief does provide information to assess some of the Section 2 matters above (e.g. provision of housing, promoting built form, employment opportunities, etc), there remains insufficient information to determine more fundamental matters (e.g. protecting natural features, servicing, fiscal impact, etc.). Similarly, in order for Council to endorse an MZO, consistent with its obligations under Section 2, the minimum information in Table 2 should be provided for consideration by the Township.

Once a ZBA application is received and reviewed by internal staff, external agencies, Indigenous Communities, peer review experts, and stakeholders, the potential land use matters would be considered through discussions with stakeholders and the applicant. A statutory public meeting would then be held by Council to hear directly from residents about

their thoughts or concerns with the proposal. Any additional information, further internal/external comments and public feedback would be considered by staff for their recommendation report for Council's consideration.

## **1.5 The preferred approach - MZO or ZBA**

For this proposal, the process of the MZO to date with the Township looks like a typical rezoning process in that the developer has prepared an application package that staff have reviewed as part of this recommendation report. When considering whether to support an MZO request instead of a ZBA application, there are three key questions that should be considered:

1. Should the MZO have to be consistent with the established policies of the Township and Region with the understanding that provincial policies already apply because of the site's location in the Greenbelt?
2. Is the amount of information provided sufficient for the Township to feel confident that, if the Minister were to issue the MZO to allow the land use, that there would no unacceptable land use impacts?
3. Is it more important to focus on the substantive issues of the proposal rather than the most expedited process?

Thus, the Township and Region have established land use policies to guide planning decisions for consistency and to uphold the wider public interest. For Council to support an MZO, it should be confident that the required studies and considerations have been undertaken since it is unclear what the Minister may consider as part of their review. Similarly, if the Minister is focused on provincial planning matters, they may not have as much consideration for local policies.

## **1.6 Application Context**

### **1.6.1 Proposal Details**

The lands subject to the MZO request are bounded by Castle Harbour Drive, Lake Scugog to the east and south, existing residential development to the south, and a section of wetland to the southwest. It is noted that wetland areas also border some sections of the lake's shoreline. Adjacent to the Subject Site, to its west, is an additional site under the same ownership as the application site, with frontage on Simcoe Street. The Planning Justification Report ("PJR") submitted with the MZO package notes that while these lands are not subject to the present MZO, they may be used to access the MZO site and enhance amenity and natural features associated with the development.

The proposed site access is via a new public road from Simcoe Street to the west of the site, connected to a system of roads within the development, which will also provide public access to the waterfront. Additional access is proposed from Castle Harbour Drive to the north of the site. The Township's existing unopened right-of-way connecting Castle Harbour Drive to Lake Scugog has also been included in the concept plan under the developer's assumption those lands would be conveyed to the developer.

According to the PJR, the development will provide a maximum of 600 residential units, providing a gross residential density of 24 units per hectare, and will offer a range of housing typologies. Concentrated along the northern boundary of the site, lots will be designated for lower density housing types comprising townhouses and single detached units. Beyond this, moving south across the site, the development will graduate towards higher density residential forms, comprising 4 and 5 storey residential buildings (possibly up to 6 storeys where at grade parking is provided below the buildings).

The concept also proposes potential community benefits through the PACE (Program All-Inclusive Care) community hub for lower socio-economic community members, Toyota mobility project, and a program with the Ontario Tech University (OTU) housing program for medical professionals. No details are provided about how these community benefits would be realized/ensured if Council were to endorse the project. Section 37 of the Planning Act establishes that Council may impose Community Benefit Charges (CBCs) to cover the cost of capital facilities as a result of the development or allow the developer to make in-kind contributions for services or facilities required because of the development. To require Community Benefit Charges (capped at an amount based on a background study), the Township must have a Community Benefit Charges By-law in place to either require monies or to ask for in-kind contributions. If the Township were to have a Community Charges By-law, it would still not apply to an MZO approval but could be applied if a subsequent Plan of Subdivision was required by the developer.

Based on the developer's responses at the December 2024 Council meeting, the new MZO application will not change any developable boundaries on the site. However, the existing approved draft plan of subdivision was reviewed, and it appears that is not the case. Based on the existing approved plan of subdivision, the net developable site area would be approximately 12.4 ha (excluding the Township's right-of-way and environmental lands).

Section 4.1.3 p) of the Scugog Official Plan defines density based on net area (not gross area) which excludes roadways, parkland and environmentally protected, non-developable areas on a site. The types of residential density are defined in the following categories:

- Low Density - 15 to 25 units per hectare
- Medium Density - 25 to 40 units per hectare
- High Density – 40 to 50 units per hectare



As a result, the proposed net density would be approximately 48 units per hectare – approximately twice the density stated in the PJR and in the High Density residential category of the Township Official Plan. It should be further noted that the actual net density would be confirmed once the updated EIS is completed, and the development limits are established for the subject site.

In addition to the residential mix of dwelling types, the PJR describes ‘small-scale commercial uses geared towards serving the immediate needs of resident’s’. It is understood that these uses would comprise retail and restaurant uses. Additionally, the development would utilize the shoreline to the east to create new sand beach areas, docks and a pier. Elsewhere on the site, walking trails are proposed in conjunction with a pedestrian bridge that would connect to the lands to the south.

A proposed access road is shown between the site and Simcoe Street within a potential natural heritage/wetland feature. Services are proposed that will use regional water supply with a private communal wastewater treatment system out-letting to the lake, in conjunction with grey water reuse.

### **1.6.2 Chronology of proposal**

Based on information provided by the developer, Avenu Properties has been working for the last two years on evolving their development concept and providing some of the technical information listed above. The development concept has built upon the existing permissions for an estate residential draft plan of subdivision last amended in 2017.

On June 17, 2024, a submission was made to the Township comprised of an MZO briefing document including several supporting technical documents. A follow-up letter was submitted on June 20, 2024 summarizing due diligence matters and enclosing a draft MZO document for Township consideration.

Avenu’s briefing document was prepared after unanimous Council Resolution No. CR-2023-371 from the December 4, 2023 Council meeting. An update/response for each of the December 4, 2023 resolutions is also provided below:

*THAT staff, on or before January 5, 2024, provide written notice of, in accordance with section 5 of O. Reg 545/06, the development proposed by Avenu Properties Corp. and Council’s contemplated use of section 34.1 of the Planning Act;*

No written notice was given because the applicant did not provide staff the technical documents including a Planning Justification Report to support the proposal.

*THAT on or before February 9, 2024, a Public Open House shall be held wherein Avenu Properties Corp. shall present its development proposal and the use of section 34.1 of the Planning Act to advance the proposed development;*

No Public Open House was scheduled by the Township because the applicant did not provide staff the technical documents including a Planning Justification Report to support the proposal.

However, the applicant held their own meetings from January to June 2024 to engage with the public and their selected agencies and community groups. Township staff did not take part in this process and do not know if regulations were followed to give notice to the public of these public engagement sessions.

*THAT Avenu Properties Corp. be asked to engage the Ministry of Municipal Affairs and Housing at the earliest opportunity after December 4, 2023, to seek the Ministry's position regarding the use of the process under section 34.1 of the Planning Act in relation to the lands proposed to be developed by Avenu Properties Corp.; Special Council Meeting Minutes – December 4, 2023;*

Staff are unaware of the Ministry's position regarding the proposed use under section 34.1 of the Planning Act or otherwise.

*THAT staff circulate the proposal to applicable agencies for input regarding the proposed communal sewage system;*

On June 30, 2024, staff circulated the proposal to agencies for input based on the information provided to Council at the June 24th Council meeting.

*THAT staff work in collaboration with Avenu Properties Corp., during the discussions with the Ministry of Municipal Affairs and Housing regarding the process under section 34.1 of the Planning Act;*

Staff are unaware of discussion with the MMAH regarding this proposal and staff are unaware of the Ministry's position regarding the proposed use under section 34.1 of the Planning Act or otherwise.

*THAT prior to February 9, 2024, Avenu Properties Corp. enter into a written agreement with the Township, in a form satisfactory to the C.A.O., in which Avenu Properties Corp. shall agree to compensate the Township for any and all of the Township's professional consulting and public consultation costs incurred to assist with the review of the proposed development;*

At the time of writing this report, a verbal agreement committing to the above has been made. If not complete already, the written agreement should be entered into prior to any further resolution of Council.

*AND THAT staff target the last Council meeting in March, 2024, to report to Council, with such report including a draft Zoning By-law for the lands in a form that could be*

*provided to the Ministry of Municipal Affairs and Housing should Council determine to pass a Resolution in accordance with section 34.1 of the Planning Act to advance the proposed development of the subject lands.*

*Staff did not report to Council in March 2024 on the proposed CIHA as staff did not receive the technical documents to review the proposal and provide a recommendation.*

Based on discussions at the December 4, 2023 Council meeting, we understand that the motion was drafted by the developer, with a minor amendment made on the night of the meeting to clarify the role of agencies regarding private communal servicing. No accompanying Township staff report was prepared for the December 4, 2023 meeting.

At that meeting, the developer made a presentation to Council regarding the proposal and requested Council to consider the use of the Community Infrastructure and Housing Accelerator (“CHIA”) (now replaced by the ZOF) process to advance the development. The meeting's purpose was to introduce the project to Council, the CIHA process, and seek Council input before undertaking additional work supporting the development.

We understand there was small public attendance at the meeting due to limited public notice beyond the Township’s typical Council agenda posting process. No supporting staff reports have been prepared regarding this application to date.

On June 24, 2024, following the submission of the MZO Brief from the developer, Council resolved (Resolution CR-2024-154) the following:

*THAT Council refer resolution CR-2024-153 to planning and development staff for study of the proposal and report back to the first PCA meeting in September.*

This report fulfills Council's June 2024 direction. In preparation for the June 24, 2024 meeting, the developer prepared a draft set of resolutions for Council to consider (refer to **Attachment 5**).

Since the December 2024 Council meeting, the proposal has been disseminated through local and social media, as well as various public and stakeholder meetings. Staff are also aware of an online petition. There has been significant public interest in the application with approximately 241 submissions received by the Township up to Wednesday September 4, 2024 and residents are generally concerned with the following themes:

- Density/Growth
- Environment/Natural Heritage
- Infrastructure
- Road Access/traffic

- Affordable housing
- Community/Servicing
- Consultation/Available information
- Process
- Taxes

These themes are consistent with what was heard at a developer hosted public meeting on May 7, 2024.

### **1.6.3 Consideration of Public Comments**

A complete list of public comments received to date is included as Attachment 7. Due to the considerable number of comments, they were categorized into themes (identified in the Section above) for the purpose of being addressed in this report. Please note that in the absence of key information from the applicant, not all comments can be addressed, but they have been considered in the preparation of this report.

#### **A) Density and Growth**

The Township OP has already identified the lands for urban development up to a maximum density of 50 units per hectare subject to several land use compatibility criteria. There is no question that this is a higher density than existing surrounding development that may have potential impacts on the area's existing character. However, the site is within the Township's settlement boundary for Port Perry (and only urban area) and has the potential to be fully serviced. On that basis, there can be an expectation of a higher density than the surrounding area subject to other matters being addressed.

The proposed development has responded to this context by transitioning using lower density development in areas of the site closest to existing homes and limiting higher density building internal to the site to 5 storeys (6 storeys with at-grade parking).

Calculations provided by the developer speak to their density being well under the acceptable maximum density, however, it appears these calculations have included areas of the site that cannot be developed due to natural heritage features. The net site density will not be able to be determined until the developable land area has been defined. Excluding these features as well as the Township's right of way along the north boundary of the site, results in the proposed density likely exceeding the maximum density in the Township OP.

Other matters resulting from higher density will be discussed in the following sections related to servicing, traffic and natural heritage.

## B) Environment/Natural Heritage

This theme was one of the most common issues from the public and stakeholders for at least two reasons – 1) the site’s obvious natural heritage features along the shoreline and within wetland areas, and 2) a submission that was missing critical information that would normally be required through an Environmental Impact Study. Adding to this uncertainty is that despite ongoing commitments that the development is respecting the development limits of the existing draft plan of subdivision, it appears that the concept plan is extending into natural heritage features, buffers and hazard lands previously excluded from development. Furthermore, in the absence of an EIS, there has been no confirmation that the previous development limit remains the same with the potential for new policies and evolving natural heritage features.

Comments from the Township, Region, Conservation Authority and MSIFN are generally aligned with those heard from the public. One of the key reasons for the deferral recommendation is to address the fundamental matter of the revised development limit based on natural heritage features, appropriate buffers, compensation areas (where appropriate) and natural hazards. The revised development limit should be to the satisfaction of the Township, MSIFN, Conservation Authority and other affected agencies prior to the development concept being revised.

Only after the new EIS has been reviewed, and development limits set, could the policy assessment be undertaken to confirm the proposal responds to natural heritage features near the site and does not impact ecological functions.

The EIS and agreed development limit would also consider shoreline areas and, if features proposed by the current concept are appropriate.

The Township also shares concerns about the health of the lake, assimilative capacity with any wastewater effluent discharge, stormwater quality, and shoreline impacts from increased density and intensity of supporting recreational uses. Staff recommend that these matters be addressed through environmental and engineering studies prior to any Council endorsement.

## C) Infrastructure

Typically, a development of this size within an Urban Area would be on full regional services (water and wastewater). Furthermore, the Region of Durham has an Official Plan policy that does not support the long-term operation of private communal systems by having a requirement that future connections to the public system will be required.

Staff recommends that the use of partial services needs be better understood before Council endorsement and examine the track record of similar systems in similar contexts. A key part of determining if private communal services will be appropriate is whether the private

management corporation for the development is capable of managing and can be fiscally responsive to maintaining such a complex private system over the lifespan of the system/development. Equally important is whether the Region must enter into a Responsibility Agreement should the system ever fail, needs servicing, or has to be replaced in the medium to long term. Despite the fact that Regional servicing is not currently planned to extend to the site, it does not mean that full services will never be available. The principle of land use on the subject lands should not be permitted in the absence of a functional servicing plan to the satisfaction of the Region and Township.

The proposed servicing is also subject to further study in terms of Provincial guidelines for Land Use Compatibility and setback to sensitive uses (e.g. existing and proposed homes and wetland). Without this study, it is impossible to determine if there will be impacts and how the concept plan may have to be amended to comply.

#### D) Road Access/traffic

While a traffic impact letter has been prepared by the developer, access to and from the site using Castle Harbour Drive and a new local road to Simcoe Street remains uncertain due the proposed road being located in a potential natural heritage feature and the Region's unwillingness to allow the new road connection to Simcoe Street.

In addition, impacts on the intersection of Castle Harbour Drive and Simcoe Street have been identified and further data is requested from the developer to assess traffic impacts in the vicinity.

Another transportation matter that the Township has identified is the developer assuming they can use the unopened right-of-way from Castle Harbour Drive to the lake. Portions of this land parcel are already being planned for access to the new Shoreline Park. The future of these lands will impact the proposed development concept plan.

#### E) Affordable housing

The MZO Briefing documents speak to housing that is more affordable but not 'true' affordable housing. Housing that is smaller becomes more affordable usually as the result of reduced construction costs. Attainable and more affordable housing needs to be defined as per the Envision Durham Official Plan.

Truly affordable housing, as defined in the Envision Durham Official Plan, should form part of the concept plan with agreements in place to ensure it is actually provided at the Region's required rate of 25% of all housing units within the Township. Further discussions with the developer are required to ensure that a sufficient amount of affordable housing is provided and secured as part of any development approval.

#### F) Community/Servicing

This matter is discussed in the Financial Considerations section of this report. Community and soft services may include library, hospital, parks, and schools. A large influx of residents from the development warrants some analysis of existing and proposed community facilities as part of the Planning Justification Report. This analysis will assist in planning for an increase in community services.

#### G) Process

Sections of this report above refer to the MZO process and the importance of transparency and fulsome information at the onset of a proposal. In the absence of an MZO consideration protocol at the Township, the local endorsement process should be transparent and generally follow the same process as a local zoning by-law amendment.

There is a theme from the comments that the proposal is unnecessarily rushing through the approval process without proper regard for the context of Planning Act applications. It should also be noted that recent changes to the Planning Act removed third party appeal rights, i.e. residents.

#### H) Taxes

A Fiscal Impact Study, based on the proposed concept, would help identify other financial risks and benefits. Both hard (e.g., servicing, roads, etc.) and soft (e.g., police, fire, schools, libraries, etc.) services may also be impacted by the development. While some of these costs would be covered by development charges, increased operational costs and the Township's/Region's share of new facilities for existing residents, not covered by development charges, could affect property taxes. Although this tax impact would be offset by an increased tax base, further analysis is needed to identify potential future shortfalls.

### **1.6.4 Indigenous Communities**

Engagement with Indigenous Communities has become a key consideration for the issuance of MZOs and is identified specifically in the Province's Zoning Order Framework as expected material to be submitted:

*Description of consultation with the public and engagement with Indigenous communities*

The MZO Briefing does contain a summary of engagement with the Mississaugas of Scugog Island First Nation (MSIFN) with most of the discussions occurring prior to March 2024. It appears that engagement became limited after their failing to reach an agreement between Avenu Properties and MSIFN on terms related to a non-disclosure agreement and financial assistance for MSIFN to review supporting studies.

A letter from MSIFN was received by the Township on March 27, 2024. The letter requested that the proposed development receive a thorough environmental assessment with meaningful consultation with the Township. The letter goes on to speak about general concerns with the streamlining of approvals in the Province, as well as specific concerns about the impact of the proposed development on the shores of Lake Scugog. MSIFN identified concerns that using an MZO would greatly impact their exercise of Constitutionally protected Aboriginal and Treaty Rights. In the absence of Conservation Authorities undertaking technical reviews of environmental reports, MSIFN is concerned about the level of review regarding environmental matters.

MSIFN also expressed concern over the development experience of Avenu Properties and the potential long-term impacts on the shoreline and wetland that may significantly impact MSIFN's treaty protected harvesting rights.

While there was limited attendance indicated in the MZO Briefing of individual Indigenous Community members at other community meetings, there are no records indicating direct engagement with other Indigenous Communities. It is not known if the limited engagement with MSIFN would satisfy the Minister before the issuance of a zoning order.

The Township should consider further engagement with all interested Indigenous Communities with fulsome supporting studies.

A second and more detailed letter was received from MSIFN on August 30, 2024. This letter expresses a much clearer position that their community strongly opposes the proposal on the basis of its threat to overall lake health, provincially significant wetlands and the watershed. These features are considered by MSIFN as part of their Indigenous Cultural Landscape. The significant environmental risks of the concept are considered by MSIFN to undermine their treaty rights.

The letter also reminds the Township that:

*as per Provincial guidance, zoning orders shall be implemented in a manner that is consistent with the recognition and affirmation of existing Aboriginal and treaty rights in section 35 of the Constitution Act, 1982. MSIFN asserts rights associated with the waters and lands surrounding Lake Scugog, especially given our community's reliance on the health of these waters for fishing, harvesting, and other cultural activities. Impacts on these waters have generational consequences for our members' ability to practice their rights and responsibilities associated with Lake Scugog.*

The letter also summarizes the consequences of not consulting nor undertaking an environmental review including loss of trust, environmental degradation, legal challenges and archeological concerns. Additional concerns expressed in the letter include:



- Communal sewage system risks and wastewater discharge;
- Impacts on the Provincially Significant Wetland and species at risk including:
  - Flood mitigation,
  - Water filtration,
  - Carbon sequestration,
  - Biodiversity, and
- Upholding the Duty to Consult and honour of the Crown.

The above issues can be viewed in the MSIFN letters included in Attachment 8. The August 30 letter also contains a table (see Attachment 9) that has been responded to by the authors of this report to assist with Council’s consideration.

The conclusion of the MSIFN letter states that they are not opposed to the development in principle but want the development to respect the land, environment, and Indigenous rights. The letter goes on to say that part of that respect includes meaningful and urgent discussions with the Township and developer to address the concerns of MSIFN to avoid the Township acting in contravention of available evidence and MSIFN’s constitutionally protected rights.

### **1.6.5 Township and Agency Circulation Comments**

Further to the Township’s circulation for agency comments for the MZO Brief, responses received by the Township are summarized in Attachment 10 and key correspondence letters. The MZO Brief was circulated in accordance with the Township’s standard procedure for zoning by-law amendment applications.

The following is a list of commenting agencies with any comments/concerns identified.

- Kawartha Conservation Authority - comments/concerns
- Durham Region Planning – comments/concerns
- Township Public Works and Infrastructure Services - comments/concerns
- Township Fire Services – no comments at this time
- Township Municipal Law Enforcement - no comments at this time
- Township Building Department - comments Ministry of Municipal Affairs and Housing – no comments. Refer to zoning order framework.
- Ministry of Environment, Conservation and Parks – no comments.
- Enbridge Gas Distribution – comments
- Canada Post - no comments
- Department of Fisheries and Oceans Canada - comments

- Bell Canada c/o WSP - comments
- Elexicon Energy – no comments
- Durham Catholic District School Board - comments
- Scugog Lake Stewards Inc. – comments/concerns
- Scugog Environmental and Climate Change Advisory Committee -comments

The following agencies were consulted but provided no response:

- Hydro One Networks
- Ontario Power Generation
- Rogers
- Durham District School Board
- Parks Canada, Trent-Severn Waterways

### **1.6.7 Planning Context**

The Subject Site is designated “Living Areas” within the regional Durham Official Plan 2020 and “Community Area” under the approved Envision Durham new Official Plan.

Under the Scugog Official Plan 2017 Office Consolidation (Schedule A-1), the site is designated ‘Residential’ and ‘Hazard Lands’ (See Attachment 11)

The Township of Scugog Zoning By-law 14-14 (Port Perry, Schedule B1) zones the site as R3 ‘Urban Partial Service Residential’, and EP ‘Environmental Protection’. (See Attachment 12).

The MZO would negate the need for any required Regional Official Plan Amendment and Township Official Plan Amendment. The permission for the proposed development would be established through a single MZO process by the Minister of Municipal Affairs and Housing. Detailed design matters such as building placement, road locations, landscaping, etc. would be determined through the Township’s subsequent draft plan of subdivision and/or site plan process.

At the December 4, 2023 meeting, the developer indicated that matters of potential Official Plan conformity were related to:

1. The Region of Durham has an Official Plan policy that does not support the long-term operation of private communal systems by having a requirement that future connections to the public system will be required. The developer has stated that such a requirement will impact the financial viability of the proposed privately

operated communal system and potentially stop the development from collecting waste heat from the system for district energy.

2. The local Official Plan requires a direct connection to an arterial road. While the developer tries to address this non-conformity policy issue by proposing a new road connection to Simcoe Street (a Type A Arterial Road), the result is a road located in what is likely a protected Key Natural Heritage Feature and the connection to Simcoe Street is not supported by the Region. The Region confirmed their objection to a new road in their comments to the Township dated August 8, 2024 where they stated that given the extensive frontage on Castle Harbour Drive, which is designated as a local road in the Region Official Plan, no direct access will be permitted to Simcoe Street.

Township initial responses to these potential Official Plan conformity matters are as follows:

- A future connection to a regional municipal sanitary sewer system rather than a private communal system would likely result in long term costs savings for residents of the development, potentially both through annual operating savings and long-term asset replacement costs. Regarding the inability to collect waste heat from the development for the proposed district energy system if connected to the Region's system, it is not clear why the waste heat could not be collected by a heat exchanger prior to discharge to the regional system.
- If the only local Official Plan conformity issue was the lack of direct connection to an arterial road, a local Official Plan amendment (OPA) could be run concurrently with the local ZBA resulting in minimal additional time to the process (pending the Region expediting their approval of the local OPA). Like the ZBA, there would be no third-party appeal rights for the OPA to potentially delay the final approval.
- The above Official Plan conformity issues were raised in the PJR, however, it is unclear if there are other Official Plan conformity matters regarding natural heritage, servicing, etc. in the absence of a full analysis by the applicant. For example, the proposed MZO (refer to Attachment 4) would permit residential uses over the entire site which would not be consistent with the Hazard Land policies of the Official Plan. Attachment 4 has been prepared illustrating both this scenario and the concept's footprint outside of the previous limits of development established by the existing draft plan of subdivision. It remains unknown if an updated EIS and Flood Mitigation Study would change the previous limits of development. Similarly, access to the development within/proximity to natural heritage features (e.g. PSW) would be other matters not supported by Official Plan policies.

- Despite the developer's assurances at the December 4, 2023 special Council meeting and June 4, 2024 Council meeting, the proposed concept plan does not appear to align with the development limits of the existing approved draft plan of subdivision as shown in Attachment 2. As a result, the existing limits of development established in the Township Official Plan and comprehensive zoning by-law would also not align with the proposed concept plan. This matter will be discussed in more detail below.

### **1.6.8 Supporting Studies**

A number of technical feasibility supporting studies were provided by the developer within the Minister's Zoning Order Briefing provided in June 2024. The findings of these reports are summarized below. The Township engaged external consultants to review the concept plan and supporting studies in the MZO Brief. Those comments are also provided below after each summary.

#### **Concept Plan:**

A Proposed Development Concept Plan was included in the PJR prepared by the Planning Partnership dated June 2024.

#### **Township comments:**

- Natural heritage - based on an overlay of the concept plan and Figure 1 from the EIS, a significant area of the development extends into the previously identified wetland limits and buffers. Additionally, environmental limits for the area west of the development adjacent to Simcoe Street have not been established.
- Natural heritage - blocks for the beach and amenity areas appear to be in a sensitive shoreline area and wetland features.
- Roads - General concerns with the proposed road network geometrics. Some elements do not comply with Township guidelines and standards. A CAD block plan drawing should be provided with the next submission, and a meeting should be held for the applicant to explain the proposed road network,
- Roads/Natural Heritage - The public street connecting Simcoe Street to the development is located within a PSW or its buffer, so it is not a viable alignment. Secondary/emergency access will be required.
- Roads - daylighting will be required as per Township standards.
- Roads - The concept plan uses part of the Township's right-of-way extending east from Castle Harbour Drive. These lands have not been conveyed to the applicant and comments from Township staff indicate that these lands will be required to access the approved capital project for the community shoreline park to the north (see

Attachment 10 for further comments and map showing the park concept from the Public Works and Infrastructure Department).

- Roads - Lack of clarity around the north-south public street that is shown entering Block 50. It may need to terminate as a cul-de-sac.
- Design - Block 52 does not have access to the proposed public street, requiring clarification.
- Design - The purpose for Blocks 34, 46, 53 and 54 is unclear.

### **Draft MZO Zoning By-law and Schedule:**

A draft MZO with the proposed zoning language and land use schedule was submitted to the Township for review by the developer in June 2024. The MZO was drafted to accommodate the proposed development concept in the MZO Brief submitted by the developer. A copy of the draft MZO by-law and schedule submitted by the developer is included as Attachment 3. A copy of the MZO schedule with the existing and proposed limits of development is included in Attachment 4.

Staff note that the draft MZO, if endorsed by Council, and approved by the Minister would permit development as-of-right on the subject lands under the Planning Act. Based on the MZO schedule provided, this would allow development well outside of the development limits associated with the existing draft plan approval and within PSWs, shoreline areas and potentially even the lake itself.

### **Township comments:**

- The by-law proposes to permit up to 600 units on either private or communal wastewater treatment systems. This is inconsistent with the development concept that speaks to only a communal system. Including the use of private systems would permit individual septic systems in a dense development. Furthermore, this provision would cause non-compliance should the development connect to the regional system as preferred by the Township and Region. The Region has not yet agreed to entering into a required Responsibility Agreement should one be required.
- It is difficult to ensure a transition from development to the north to new homes in “Zone 1” when there are no draft provisions such as lot area, frontage, read yard, etc. These matters could not be mandated under site plan approval.
- While the MZO brief speaks to a maximum height of 5 storeys, the draft MZO provisions exclude parking and non-residential uses on the ground floor from the maximum height calculation. This could permit 6 storey buildings across most of the site.
- There is no zone or use listed to reflect the neighbourhood park identified in development concept.

- The draft by-law refers to an area of “Environmental Protection/Open Space”, however, no area is shown on the schedule to apply those provisions.
- A significant issue is that the schedule of the draft MZO does not reflect the limit of development for either the existing draft plan of subdivision or the proposed concept plan. The current MZO schedule would permit development in a natural heritage area (including a PSW), its associated buffers, and hazard lands. This permission would not be consistent with Provincial policy which applies to the MZO.
- The MZO proposes to rezone Township owned lands for residential development (extension of Castle Harbour Drive) that is to be used to access the Township’s proposed shoreline park (see Attachment 10 for further comments from Public Works and Infrastructure Department).
- Lands for a proposed road connection through the property to the west are not included in the MZO.

### **Natural Heritage Feasibility Letter - GHD (June 2024)**

GHD prepared a natural heritage feasibility letter, making a number of recommendations and proposed mitigation methods related to the treatment of the wetland boundary/buffer, sediment and erosion control, and other environmental matters. Staff do not consider this to be an Environmental Impact Statement or update to previous environmental work.

The report concludes that further discussions with agencies will be required at the later detailed site plan design phase to ensure compliance with current natural heritage policies and features resulting in revisions to the concept plan. The PJR refers to a “new EIS being prepared” on Page 38, however, no timing of this study has been provided. In addition, the GHD letter concludes that additional site investigations are recommended to verify natural features to ensure their presence or absence.

### **Township comments:**

- The development limit to the Environmental Protection Zone cannot be approved until the pending Environmental Impact Study has been prepared and reviewed to the satisfaction of the Township and other review agencies such as the Conservation authority, DFO, Parks Canada in consultation with MSIFN. Site Plan Approval would not give the Township the ability to limit uses inside environmental features if the MZO was approved in its current form.
- The Feasibility letter only covers the eastern portion of the property. An EIS must cover all the application lands, identifying environmentally sensitive areas and determining the limits of development (including any lands required for future road access).

- Within the Conceptual Site Plan, development is shown (multiple lots, docks, a pier and a man-made sand beach) within a PSW which is not permitted by the PPS. The EIS must confirm the wetland boundary and demonstrate that development is outside the wetland, with a minimum vegetation protection zone 30m around the wetland.
- If any in-water work is proposed outside the PSW, an assessment of the impact to fish habitat will be required.
- If no new data was collected in spring 2024, then it is likely any future Environmental Impact Study (EIS) would be delayed until the spring of 2025 to collect necessary data to establish the limits of development. The current limit of development needs to be established by an EIS and Flood Mitigation Study at the onset of the concept planning process and ultimately the proposed MZO. The June 2024 Concept Plan does not appear to align with the limits of development already in place with the approved low density residential draft plan of subdivision as shown in Attachment 2 and 4. Endorsing the proposed MZO in its current form, and it being approved by the Minister, in the absence of a current EIS, would allow development in sensitive natural features and their associated buffers.
- The reliance on previous Environmental Impact Studies associated with the existing approved subdivision is not acceptable given that those studies exceed 5 years in age and new studies are required to reflect existing conditions.
- While the June MZO Briefing Document contained an “Important Placeholder” for a wetland boundary assessment to be completed by June 30, 2024, no assessment has been provided. Any support for a concept plan in advance of the development limits is not good planning and would be premature.
- With their own consultant recommending an update to natural heritage feature mapping, it is premature to assess wider policy conformity, including density, as the concept will likely change.

### **Traffic Letter- LEA Consulting (March 2024)**

The Letter found that the development site had limited access to the existing public transit network operated by Durham Region Transit (DRT). The letter states *‘The nearest bus route is located approximately 1.5 km (about a 20-minute walk) south of the subject site at the intersection of Reach Street & Simcoe Street. The available bus service at this intersection is capable of providing future residents access to the wider DRT transit network with transit connections at Whitby Station and Oshawa Station.’* Additionally, there is minimal cycling infrastructure around the site, which received a BikeScore™ tool score of 27/100. Regarding this, the letter mentions that *‘the Durham Regional Cycling Plan has outlined proposed changes to Simcoe Street which will improve cycling for future site users.’*

Similarly, from a pedestrian network standpoint, the site has been identified as heavily car dependent, receiving a WalkScore™ of 10/100. It is however recognized that *‘there are plans to improve the walkability of the surrounding area as noted in the Township of Scugog Active Transportation and Transportation Master Plan.’*

Regarding trip generation, the letter conducted by LEA Consulting Ltd. found that *‘the proposed residential development is forecasted to generate 227 two-way auto trips (53 inbound and 174 outbound) during the AM peak hour, and 248 two-way auto trips (151 inbound and 97 outbound) during the PM peak hour based on the ITE Methodology.’* As such, it is envisioned that under future background conditions, the intersection close to the west of the site where Simcoe Street, Castle Harbour Drive and Scogog Line 8 meet, is expected to operate within capacity, with no constraints identified. While *‘most intersections in the study area are expected to operate within the capacity in future Scenarios’*, the Scenario 2 analysis results indicated that some intersection improvements would be required at the intersection of Simcoe Street and Castle Harbour Drive.

Township comments:

- Any potential intersection improvements and active transportation connections can be addressed as part of the more detailed site plan process once the permitted access points are established.
- The report was unsigned and did not state the author. All reports to the Township must be signed.
- While the TIS identifies Simcoe Street as a Type ‘B’ arterial road, the Official Plan designated it a Type ‘A’ arterial road.
- Background traffic growth was applied, yet the TIS fails to outline the % growth used or provide a justification for the % growth used. The TIS also fails to consider the background developments surrounding the site. Analysis must be updated to include justification of traffic growth used and relevant background developments around the site.
- Further analysis is required to determine the impacts of traffic on the area and effects on Level of Service at the Simcoe Street and Castle Harbour Drive intersection, including any impacts of a new intersection to the south as part of the development.
- The feasibility of a new road through natural heritage features should have been assessed from a natural heritage perspective and all options explored to address potential issues.

**Civil Engineering Report- SCS Consulting Group (May 2024)**

The Summary of Servicing Feasibility report provided by SCS Consulting Group outlines that the proposed development was found to be feasible from a servicing standpoint, subject to further detailed design *‘to correspond with the development size, scope, and*



*construction phasing.*

Township peer review comments:

- Grading- A preliminary grading plan and preliminary cut and fill plan should be provided with the next submission.
- Water Servicing- The existing water infrastructure will need to be upgraded per the Region of Durham 2018 EA and 2023 Development Charge Background Study. It does not appear that water servicing feasibility has been established. Further study is required to support the proposed development.
- Stormwater Management- A SWM facility would be a permitted use in the proposed zones of the MZO draft. Therefore, there are no comments related to the proposed MZO provisions.
- It is unclear how SWM and LID features and functions referred to on Page 57 of the PJR can be relied upon to support the concept in the absence of supporting hydrological and geotechnical studies (e.g. a high water table may prevent servicing options relied upon for a higher density development).

**Wastewater Treatment- WSP (June 2024)**

WSP produced a report to establish the feasibility of implementing a proposed wastewater recycling system for the proposed development. The report finds that the feasibility of a private wastewater treatment system for this development aligns with the Township of Scugog's sustainability initiative, which is outlined in Section 3.16 of the Township of Scugog Official Plan. It is also stated that the reuse of recycled water is common practice across countries including Canada, USA and Australia.

WSP's analysis suggests a promising outlook for the implementation of the proposed wastewater reusing system. It is considered that subject to careful consideration of various factors, there is potential for the proposed system to provide effective treatment of wastewater for reuse.

Township comments:

- This report's scope would need to be expanded to address policy conformity issues with the Region OP and the Province's D-2 Compatibility between Sewage Treatment and Sensitive Land Use Guideline for adequate separation distances to nearby sensitive land uses. The D-2 Guidelines require setbacks generally between 100 and 150 metres between wastewater treatment facilities and sensitive land uses which may include residential and wetlands which may require significant changes to the Concept Plan.

- A 100% water reuse scenario does not appear to be proposed, or realistic. A suitable effluent receiver must be identified.
- Additional information is required to quantify an overall wastewater balance.
- Pre consultation discussions with the MECP is highly recommended, for input on the feasibility and approvability of the overall servicing approach prior to the endorsement of the MZO.
- Where references are made to other examples, additional information confirming those developments that have a similar context is requested (e.g. private systems that may have back-up connections to a municipal system, climatic differences that could impact treated effluent disposal options like irrigation, etc.)

### **Sustainability Feasibility Report- Internat Energy Solutions (February 2024)**

Internat Energy Solutions Canada (IESC) undertook a preliminary Sustainability Feasibility study for the proposed development. The report finds that there is a promising opportunity to apply sustainable design principles for the proposed development, in accordance with the Official Plan.

It is stated that the project demonstrates a strong commitment to environmental stewardship, with considerations of maintaining the natural environment, protecting wildlife, and implementing measures to reduce resource consumption and emissions.

It has been identified that the preservation of Scugog's natural landscape involves several key strategies, including strategies to mitigate disruptions to the shoreline, designing buildings with consideration of bird habitats, the effective management of storm and wastewater, and utilizing renewable energy sources.

It is recommended that this report be reconciled in the future against any natural heritage evaluation for the subject lands.

#### **Township comments:**

- The relationship between district energy, geothermal heat sources and grey water reuse should be clarified.
- Confirmation is needed as to whether on-site waste heat could still be recovered from effluent prior to entering a regional wastewater system.
- Any commitment to environmental stewardship should start with the delineation of the limits of development from hazards and natural heritage features, including required buffers to demonstrate no negative impacts on the natural heritage features or their ecological functions.

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**Stage 1-3 Archaeological Assessment - Archaeological Assessments Ltd. (November 2003)**

A report produced by Archaeological Assessments Ltd. In November 2003 has been provided with the proposed MZO. It is understood this study formed part of the original draft plan of subdivision application.

Stage 1-3 assessments were carried out, with the results of the Stage 3 assessment indicating that none of the surveyed sites represent significant archaeological resources. Given the results of the Stage 1-3 assessment, it was recommended that the subject property should be cleared of any conditions related to archaeological resources.

**Township comments:**

- If the revised limits of development exceed those of the original draft plan of subdivision, then the archeological study should be updated accordingly.
- The updated Assessment should be submitted to the Ministry of Tourism, Culture and Sport for entry into the Ontario Public Register of Archaeological Reports and receipt of confirmation from the Ministry provided to the Township and Region.
- There shall be no disturbance or grading of the site until the Ministry signs off on the said archaeological study requirements and findings.
- Council may through a Zoning By-law Amendment conserve the integrity of archaeological resources by adopting Zoning By-laws, under Section 34 of the Planning Act, that prohibit land uses on sites where an identified significant archaeological resource exists. However, it is unknown if the Minister would exercise such a tool through an MZO. The Township should further consult with MSIFN who have identified in their letter dated August 30, 2024 that potential archaeological resources may exist on the Subject Site.

**Phase One Environmental Site Assessment Report - Existing Vacant Property (GHD, 2016)**

A Phase One Environmental Site Assessment Report was undertaken on the vacant site in 2016 and submitted with the present application. The Phase One ESA was prepared to establish the potential for materially significant environmental liabilities. The report established that the 'Property is suitable for its current zoning and proposed future residential use.' The report concluded '*It is GHD's opinion that only a Phase One ESA is required and a Phase Two ESA is not warranted. A Record of Site Condition is not required.*'

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**Phase One Environmental Site Assessment Update (GHD, dated November 17, 2023)**

A Phase One Environmental Site Assessment Update letter was prepared and concludes that there no new potentially contaminating activities (PCAs) or new areas of potential environmental concern (APECs) since the 2016 ESA report and recommends no further ESA work is recommended.

Township comments:

- Any future ESA work should be current, i.e. no more than 18 months old, and should be a condition of any subsequent approval, i.e. Site Plan, draft plan of subdivision, etc.

**Planning Justification Report (PJR)**

The role of the PJR is to assess the various technical reviews undertaken by professional peer reviewers and assess consistency with applicable policies and the principles of good planning. The role of the professional municipal planner is not to create ‘red tape’, but instead balance the needs of the community and good planning with an objective opinion that that Council can rely upon when making decisions.

The PJR prepared by the Planning Partnership submitted in June 2024 has been reviewed. The report concludes with:

*The Proposed Development is consistent with the Provincial Policy Statement, conforms with the Growth Plan for the Greater Golden Horseshoe, directly addresses numerous Provincial, Regional and local planning policies and objectives, and represents good planning and provides good, thoughtful urban design.*

The PJR further states that:

*The Proposed Development addresses the broader goals and objectives of the Regional and Local Official Plans, along with the matters of Provincial interest that are crucial in developing complete communities and supporting the Province’s overall success...*

While elements of these statements have been confirmed after reviewing the materials, there are significant gaps in the policy analysis and supporting materials for the Township to arrive at the same conclusions as evidenced in the peer review comments below.

Township comments:

- The PJR refers to the Natural Heritage Feasibility Letter prepared by GHD that confirms further investigations are recommended to verify natural features. Without the knowledge of these features and their location, it is impossible to confirm if the proposed concept plan is indeed consistent with applicable natural heritage policies in the PPS that continue to apply given the site’s location within the Greenbelt Plan. Section 2.0 of the PPS specifically states no development shall be permitted on lands adjacent to natural heritage features if there are negative impacts on the features and their functions. Page 20 of the PJR only speaks to siting that “minimizes” impacts to the adjacent Provincially Significant Wetland without the benefit of a completed EIS as referred to on Page 31. Section 2.0 also clearly states that no development can occur in a PSW. It is in the developer’s best interest to deal with these matters now since it is unlikely that the Minister would approve the MZO if there are provincial policy issues not consistent with the PPS.
- Typically, the local rezoning process would identify the development limits at the onset of the process to inform the concept plan and only lands necessary for the concept and within the development limits would be permitted. It is inappropriate and not best practice to establish development rights across the entire site at the onset and then try to implement natural heritage protections at a later date.
- Requirements for environmental areas and buffers, after the proposed uses are permitted by the MZO, cannot be addressed through any conditions imposed by Section 41, Site Plan Approval, of the Planning Act, contrary to what is stated on Page 32 of the PJR. Section 41 of the Planning Act clearly states what matters the Township can consider as part of site plan approval conditions and these matters are essentially limited to:
  - Highway widenings
  - Site access details
  - Parking, loading and driveways
  - Walkways and pedestrian access (including accessibility matters)
  - Lighting
  - Landscaping features
  - Garbage facilities
  - Servicing easements and facilities
  - Grading and site alteration

Furthermore, the Minister is not able to approve an MZO with conditions under the Planning Act.

- The EIS would need to include lands proposed as part of the future road connection to the west to confirm no impacts on natural heritage features and ecological functions or if the road would be considered “infrastructure” for the purposes of applicable Greenbelt Plan policies.
- There is a significant policy summary in the PJR, however, not all the applicable policies have been identified and responded to (e.g. balance of Section 1.6.6, sections 1.7, 1.8, 2.0 and 3.0) in the spirit of Section 4.2 of the PPS that states:

*This Provincial Policy Statement shall be read in its entirety and all relevant policies are to be applied to each situation.*

- The incomplete policy analysis makes it difficult to reach the same conclusion as the developer’s planner that the development is consistent with the PPS.
- Similarly, broad statements suggesting the development conforms with other policies and meets other policy objectives at the local and regional level is difficult to confirm (e.g. Section 3.4.3 of the Greenbelt Plan).
- The applicant should clarify their preferred method to meet the Township’s parkland dedication by-law 83-01. The Township could ask for 5% of developable area (approximately 0.6 ha) or the alternative rate under the Planning Act of 1 ha per 600 units (approximately 1 hectare). If the Township were to acquire parkland, this land could be consolidated with the existing Township owned right-of-way to the north and proposed shoreline park already being planned.
- An MZO does not consolidate planning approvals nor can it require sustainability as stated in Page 3 of the PJR.
- A reference is made in the PJR that the existing draft approved Plan of Subdivision will need to be amended to reflect the updated development. This proposal is significantly different and should have a new draft plan of subdivision to reflect the current proposal, applicable policies and existing conditions. Reliance on an existing development with an outdated Natural Heritage Study is not appropriate.
- Reference is made to Council’s December 4, 2023 resolution regarding public engagement and implies that a public open house has fulfilled the direction of the December 4 resolution. However, the developer’s public meeting process did not follow Section 34.1 of the Planning Act as resolved by Council.
- A more detailed review of local and regional policies has not been undertaken at this time until conformity with the Provincial policies is better understood and possibly incorporated into a revised concept plan.

- While the partnerships to advance the proposal for a shuttle, the utilization of the PACE model, and university study could advance some provincial interests, these components are secondary to the principles of good planning and the fundamental elements of the proposed development. Moreover, the MZO itself cannot require partnerships or future operational details such as mobility methods, defined housing operators, specific tenants, etc.

## **2.0 Discussion:**

### **2.1 Outstanding Matters and Land Use Principles**

#### **2.1.1 Threshold Matters**

The Council resolutions proposed in this report are based on a review of the information provided as part of the Developer's MZO Brief and comments received from Township staff, MSIFN, external agencies and public comments. During this review, threshold matters that would prevent staff's recommendation to support the proposed MZO were identified as follows:

- Study and Assessment Requirements:
  - Updated Archaeology and Cultural Heritage Assessment
  - Environmental Impact Study/Natural Heritage Evaluation
  - Financial Impact Study including future potential costs to Township/Region
  - Hydrogeological Study
  - Geotechnical Study
  - Natural Hazard Study and Flood Impact Study
  - Planning Rationale/Justification Report assessing consistency with ALL applicable policies
  - Servicing Options and Infrastructure Study (Functional Servicing Report)(including assimilative capacity of the lake)
  - Land Use Compatibility Study/D-2 Guideline Assessment
- Establishing the limits of development based on a new Natural Heritage Evaluation and Hazard Impact Assessment and input from the Region, Conservation Authority, MOECP, MSIFN, DFO, and Trent Severn Waterway.
- Confirmation from the Region of Durham that they will enter into a Responsibility Agreement to secure MOECP approvals. Lack of viable servicing is considered fatal to the development concept.
- Consistency with applicable provincial policies since the site is located within the Greenbelt Plan.

- Confirmation that the Township will allow its own right-of-way to be used to accommodate the proposed concept. Township staff have confirmed that the ROW is required for the approved shoreline park project. If that is the case, the ROW should be removed from the MZO request and the concept plan amended accordingly. Decisions regarding the ROW should consider the Town's preferred method of parkland dedication and whether there is a potential consolidation of the ROW and additional parkland with the proposed shoreline park. It should also be noted that lands containing natural heritage features should not be considered part of any minimum required parkland dedication.
- A suitable alternative road, such as for emergency purposes, needs to be identified and reflected in a revised concept plan and MZO schedule. The Region has confirmed that the proposed road to Simcoe Street is not supported.
- Confirmation is required that concerns of MSIFN and other interested Indigenous Communities have been addressed to support the MZO request. It is unclear if Township support will make the difference for the developer's request to the Minister if other key elements of the MZO Framework are not being met. Lack of supporting information, concerns from MSIFN (as noted earlier in this report), and potential non-conformity with Provincial policies are examples of other matters that may affect the Minister issuing an MZO.

In summary, staff would reconsider its recommendations to Council once the above fundamental matters have been addressed by the developer to the satisfaction of the Township.

### **2.1.2 Technical Matters**

Also identified in the review of the submitted materials and comments were a series of technical comments that should be considered in subsequent planning approvals and permits after the threshold matters above have been addressed:

- Clarification of how District Energy and Geothermal Systems are being proposed. In addition, there may be technical options that would still allow these activities to take place if connected to a regional water/wastewater system.
- Confirmation of required parking rates and how parking will be provided for both residents, commercial users, and the public accessing amenity areas. Specific rates may need to be included in the site specific MZO provisions. Extent of at grade parking within buildings needs to be better understood to determine maximum building height.
- A more specific breakdown of the commercial floor spaces being proposed and possible inclusion in the MZO.



- Identify mechanisms and agreements to ensure the community benefits proposed to support the MZO request are delivered.
- More detail on how the proposal will be integrated with Township trail systems and park facilities.
- Clarification of how autonomous vehicles will have an impact on modal split that is different than current ride hailing services.
- Provision of operation details associated with the marina and other private/public open space areas.
- Details of how housing can be made more affordable and attainable.

Other technical matters will be identified as part of future reviews concerning additional information and a revised concept. The above list is not considered to be exhaustive.

## **2.2 Future Processes and Timelines**

As mentioned above, the potential issuance of an MZO is but one step in a continuum of approvals as the matters are addressed and the details are better understood. Should the MZO establish the principle of land use, then subsequent approvals would be required by the Township, Region and Province as outlined below.

### **2.2.1 Other applications**

The following applications would be expected if an MZO was approved. This list is not meant to be exhaustive and may change subject to the details of the MZO and any changes that may occur as the design evolves. These applications would be subject to the approval of the respective approval authority and are listed in the likely order of their submission.

Plan of Subdivision (Region) – To establish lots and blocks/parcels for future homes and future condominiums. Required parkland, whether actual land dedication or cash-in-lieu, would form part of this approval.

Plan of Condominium(s) (Region)- To establish specific transferrable units and common elements necessary for the function of the condominium (e.g. roads, driveways, parking, servicing, etc.)

Site Plan (Township) - To establish the specific details of the development such as building location, landscaping, access, and servicing. Please note that site plan can only control matters listed under Section 41 of the Planning Act which prevents the municipality requiring other matters such as sustainability features, building appearance, site amenities, unit types, density, building heights and setbacks, parking, occupancy, operational matters, etc.

Conservation Authority Permits (Kawartha Conservation) - permit(s) would be required for works in regulated areas of the site to protect against potential flooding and hazard impacts.

The permit(s) would not be able to regulate matters related to natural heritage features and potential impacts.

Servicing Approval(s)(Region and Province) - Depending on future access and servicing arrangements, approvals will be required for various matters. This would include permits from the Region for access and from the Province (e.g. MNR, MECP) for stormwater, wastewater facilities and in water works.

Building Permit Applications (Township) - These permits would represent one of the last in the approval process to give permission to erect buildings and structures that meet applicable law, and the conditions of permit listed above.

Parks Canada - All work on, under and over the bed and waters of the lakes and rivers of the Trent–Severn Waterway requires a permit from Parks Canada. This includes (but is not limited to), the installation, repair, replacement, relocation and removal of docks, ramps, inland wetlands, shoreline stabilization, dredging and the removal of aquatic vegetation.

### **2.2.2 Estimated Timelines**

It is unknown how long the Province would take to consider the MZO request and if they would require additional information and consultation.

If the proposal was to move forward under a local rezoning process with no amendments required to the local or regional OP, then Council could decide within four to six months of receiving a complete application with the required studies.

Once the principle of land use was established on the subject lands, either through an MZO or local ZBA, it is estimated that the final building permit applications to commence construction could occur as early as 3 to 4 years after other approvals and permits listed above have been received.

## **3 Financial Implications:**

There are no direct financial implications to the Township by supporting the request for MZO support. The developer has verbally committed to cover the Township's professional consulting and public consultation costs incurred to assist with the review of the proposed development.

Any future applications to the Township would be subject to the respective application fees to offset the cost of their consideration.

Future agreements will be executed as part of the future draft plan of subdivision / condominium and site plan to allocate offset required works and costs required by the development.

Residential units and commercial floor space will be subject to Development Charges to contribute to Township expenses related to growth as set out in the Township's Development Charges Background Study.

The Township could incur increased costs for the approved shoreline park capital project if the Township's right-of-way were to be transferred and used by the developer as proposed.

Township residents contribute a portion of their property taxes to the Region. If the Region were to enter into a Responsibility Agreement for the private wastewater facility and had to assume repairs or operation of the facility in future, there would be impacts on the Region's budget.

A Fiscal Impact Study prepared by the applicant to the satisfaction of the Township's and Region, based on the proposed concept, would help identify other financial risks and benefits. Both hard services (e.g. servicing, roads, etc.) and soft services (e.g. police, fire, schools, libraries, etc.) may also be impacted by the development. While some of these costs would be captured through Development Charges, increased operational costs and the Township's/Region's share of new facilities for existing residents, not captured by development charges, could have a property tax impact. While this tax impact would be offset by the increase in the tax base, further analysis would need to be undertaken to identify potential future shortfalls.

## **4 Communication Considerations:**

### **4.1 Public Engagement to Date**

The proposed MZO Briefing Document submitted by the applicant outlines the public engagement undertaken by Avenu Properties.

A copy of the presentation shown at several public meetings was provided. The applicant states that the total combined attendance of community engagement meetings was between 250-300. Meetings were held with various local groups, in addition to various one-on-one meetings, including:

- Canterbury Commons Engagement Session
- Castle Harbour Community Consultation
- Scugog Public Community Consultation
- Scugog Chamber of Commerce

Without Township attendance at meetings held by the proponent, this report relies on the engagement summaries contained in the June 2024 MZO Briefing prepared by the developer. Key questions and "Takeaways" were documented for most meetings. It is not clear if the questions raised were specifically addressed in the MZO Briefing. It seems many

of the questions raised remain unanswered. Should additional studies be undertaken as suggested, there would be additional time and material to answer questions for the benefit of stakeholders and Council.

The Township did reach out to the public and placed information on the Township’s webpage in August 2024 to get public input. Significant public interest occurred as a result and was considered as part of this report in the above sections.

## **4.2 Recommended Engagement Strategy**

If Council were to defer their support for the MZO, it is recommended that at least one Township hosted public meeting be held after revised materials have been posted for public comment. Council’s resolution from December 4, 2023 requiring a public meeting in accordance with the Planning Act is still outstanding. A public meeting would fulfill that resolution and give the public an opportunity to comment on revised supporting documents.

No additional open houses are considered necessary given the public engagement work by the developer to date. The developer may choose to have additional public engagement with revised information that may address previously raised concerns.

## **6. Conclusion:**

This report has reviewed the developer’s MZO briefing document. In addition to internal Township staff reviews and external agency circulation, external experts have reviewed the available materials whose comments are included in this report. All public comments received by the Township to date have been reviewed and considered.

The result of the review process is summarized in this report and the recommendations to Council. The proposal has many unanswered questions and missing information that are considered threshold issues that need to be resolved prior to the consideration of an MZO request.

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Respectfully Submitted by:

Valerie Hendry, MCIP, RPP  
Manager of Planning

and

Paul Lowes, MCIP, RPP and Tim Cane, MCIP, RPP  
SGL Planning and Design Inc.

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Reviewed By:

Kevin Heritage,  
Director of Development Services

**Attachments:**

Attachment 1 is a copy of Avenu Properties Proposed Concept Plan 2024

Attachment 2 is a copy of the Existing Approved Draft Plan of Subdivision for the Subject Lands

Attachment 3 is a copy of the Draft MZO by-law and schedule provided by Developer, June 2024.

Attachment 4 is a copy of the Draft MZO mapping with limits of development

Attachment 5 is a copy of the Draft Council MZO Resolution June 2024 prepared by the Developer.

Attachment 6 is a copy of the examples of other municipal protocols to consider MZO requests.

Attachment 7 is a copy of public comments received by the Township September 4, 2024

Attachment 8 is a copy of the letters provided by the Mississaugas of Scugog Island First Nations, dated March 27, 2024 and August 30, 2024.

Attachment 9 is a copy of the table provided in MSIFNs letter dated August 30, 2024 with Township comments.

Attachment 10 is a summary of agency comments (including key correspondence letters).

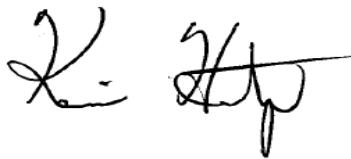
Attachment 11 is a map of the Official Plan designations for the Subject Site.

Attachment 12 is a map of the current Zoning for the Subject Site.

**Report Approval Details**

Document Title:	MZO request Avenu Properties - South of Castle Harbour Drive - DEV-2024-029.docx
Attachments:	<ul style="list-style-type: none"> <li>- Attachment 1 Avenu Properties Proposed Concept Plan 2024 AODA.pdf</li> <li>- Attachment 2 Existing Approved Draft Plan of Subdivision for the Subject Lands AODA.pdf</li> <li>- Attachment 3 Draft MZO by-law and schedule provided by Developer June 2024 AODA.pdf</li> <li>- Attachment 4 Draft MZO mapping with limits of development AODA.pdf</li> <li>- Attachment 5 Draft Council MZO Resolution June 2024 prepared by Developer AODA.pdf</li> <li>- Attachment 6 Examples of other municipal protocols to consider MZO requests AODA.pdf</li> <li>- Attachment 7 Public Comments Received by the Township_Redacted_acc.pdf</li> <li>- Attachment 8 Letters from Mississaugas of Scugog Island First Nations, dated March 27, 2024 and August 30, 2024 AODA.pdf</li> <li>- Attachment 9 Table MSIFNs letter (30 August 2024) with Township comments AODA.pdf</li> <li>- Attachment 10 Summary of Agency Comments (including key correspondence letters) AODA.pdf</li> <li>- Attachment 11- Official Plan Schedule Excerpt.pdf</li> <li>- Attachment 12 - Zoning By-law Excerpt_acc.pdf</li> </ul>
Final Approval Date:	Sep 12, 2024

This report and all of its attachments were approved and signed as outlined below:



Kevin Heritage

**No Signature - Task assigned to Ralph Walton was completed by assistant Ashley MacDougall**

Ralph Walton