

Tivoli Condo's Development Application Height and Density Bonusing Considerations

Section 37 of the *Planning Act* deals with increased density and states:

"(1) The council of a local municipality may, in a by-law passed under section 34, authorize increases in the height and density of development otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law."

Section 1.9 of the Urban Hamilton Official Plan deals with Bonusing Provisions and states:

"The City may authorize increases in the height and/or density of a proposed urban area development, beyond those permitted in the Zoning By-Law, in return for the provision of community benefits that meet the policy objectives of this Plan."

What is the Community Benefit?

- Retain, sustain, a unique downtown landmark and heritage theatre – which other development cannot;
- Provide a cultural contemporary theatre attraction capable of directly serving the community, performing arts, music, theatre and film exhibition;
- No negative impact on the heritage component of the existing building (interior designated);
- Increase tax base significantly;
- Clean up contaminated site in downtown to residential standard;
- Contribute to sustainability of public transit and downtown businesses; and
- Serve as a catalyst for further development and economic growth along James Street North.

Rationale:

- Site constraints: contaminated site, narrow lot and limited opportunity to obtain additional land, limited space in front of theatre, heritage designation of theatre interior, location of theatre on the lot.
- Many challenges associated with converting an historic vaudeville/movie theatre into a contemporary theatre attraction capable of serving community performing arts, music, and theatre and film exhibition.
- Janis Barlow, a respected Theatre Consultant advises:
 - most historic theatre rehabilitations require front-of-house, stage and backstage additions to meet contemporary theatre building code conditions – the Tivoli is no exception

- The “public service requirements” of any contemporary theatre include: a foyer, elevator, grand stair, lobby/gallery, lounge/event space, washrooms, coat check and hospitality/concession services
- As a rule of thumb, a 6,500ft² contemporary auditorium would require at least 6,500ft² of front-of-house **and** 6,500 ft² of stage, backstage and administration space to meet building code and functional requirements.
- Therefore, in order to make the Tivoli’s ±6,500 ft² heritage theatre sustainable you need ±6,500ft² of contemporary space in front of the theatre to make it work
- Normally, meetings and rehearsals would be accommodated in rooms in a backstage addition which is not possible on this site because the vaudeville stage abuts Hughson Street and there is no room for expansion.
- Proposed design provides these essential services PLUS we have included a highly desirable amenity of a restaurant that can offer event catering to the theatre and a multi-purpose event space that can accommodate meetings and rehearsals.
- The costs associated with the front-of-house facilities can be justified through the residential condominium tower
- We need 19 storeys of residential condominium space to pay for the front-of-house facilities

.....WE NEED THE HEIGHT/DENSITY TO PROVIDE THE FRONT-OF-HOUSE FACILITIES THAT WILL MAKE THE THEATRE SUSTAINABLE CULTURAL FACILITY and PROVIDE COMMUNITY BENEFITS

Tivoli Condo's – 108 James Street North

Processing Chronology:

Date	Details
Jan. 15, 2014	Formal Consultation (FC-13-108) <ul style="list-style-type: none"> • Request for 12-20 storey mixed use building and retention of theatre • Minor Variance, Preliminary and formal Site Plan approval identified as required Planning Act planning approvals
March 2014	Heritage Impact Study submitted to City
April 7, 2014	<p>Advised by City Cultural Heritage Planner by email that only the interior of the auditorium was designated as heritage significant. Heritage Impact Study reflects this direction.</p> <p>Early in 2014, City Staff suggested the owners purchase adjacent properties to provide parking to service the proposed development. 115 Hughson Street was purchased. Following the purchase City Staff issued a report identifying the property as a built heritage resource.</p>
May 22, 2014	Preliminary Presentation of proposal to Design Review Panel
June 9, 2014	Email from City staff - advising that application must proceed via full rezoning (despite January FC document)
June 11, 2014	Preliminary Site Plan Review (PSR-14-055)
June 26, 2014	Letter from GM Jason Thorne – response to developers request to advise what height City planning staff would be prepared to support (Note: response reflected current policy requirements related to height.)
Sept. 10, 2014	Community Open House sponsored by applicant (at GM's request)
Oct. 30, 2014	City authorizes (at City's cost) Dialog (architectural consultants) to prepare a Peer Review of the development proposal (Note: formal application had not been submitted nor been deemed complete and City/Dialog did not inform MSA of Peer review as required by <i>Architects Act</i>)
Nov. 29, 2014	Dialog undertakes a site visit (Note: application not yet submitted to City nor deemed complete)
Nov. 29, 2014	Dialog has a working session with City Planning Staff “including a presentation and collaborative review of the proposed development” (Note the application had not yet been submitted nor been deemed complete)
Dec. 1, 2014	Application submitted
Dec. 10, 2014	Application deemed complete by City staff (ZAR-15-001)
Dec.	Application circulated to departments and agencies for comments
Jan. 26, 2015	City staff advise applicant verbally that application as submitted will not be supported and that application will be considered at the March 3 Planning Committee meeting (Note: before all circulation comments received including Urban Design staff comments and before Dialog Peer Review completed)
	<p>Applicant formally requests (email) that application be held to provide time for review and discussion of circulation comments received and to discuss height.</p> <p>Request denied.</p>

Date	Details
Jan 30, 2015	Advised by City Cultural Heritage Planner by email that an underlying By-Law was not repealed and the lobby interior remains of heritage significance. (Note: opportunity to revise Heritage Impact Study was not provided)
Feb. 2, 2014	Applicant provided with copy of circulation comments – (not including Urban Design Staff comments)
Feb. 5, 2015	Dialog Peer Review document
Feb. 10, 2015	Public notice sign posted
Feb. 13, 2015	Notice of Public Meeting
Feb. 18, 2015	Applicant provided with copy of Dialog Peer review
Feb. 23, 2015	Staff Report mailed to Owner/Applicant (received Feb. 26, 2015)
March 3, 2015	Statutory Public Meeting and Planning Committee meeting – Committee/Council resolution to defer the matter until March 31st to provide for more consultation with staff and community
March 3, 2015	Met with BNA rep and set up follow up meeting.
March 6, 2015	Receipt of Beasley neighbourhood Association Issues/concerns
	Request for meeting with City staff including urban designer
March 10, 2015	Copy of Urban Design comments received (following repeated requests since January)
March 11, 2015	Meeting with Beasley Neighbourhood Association as per Councillor Farr's direction (City staff in attendance)
March 18, 2015	City Mails out revised staff report dated March 19th (Note: staff report completed before meeting with developer or staff)
March 20, 2015	Meeting with City staff as per Councillor Farr's direction (GM, urban designer and project planner did not attend)
March 31, 2015	Statutory Public Meeting and Planning Committee meeting

Total processing time of application:

- From date of complete application (Dec 10) to Planning Committee (March 3): 83 days (54 working days)
- From date of complete application to Staff's verbal notification of denial recommendation: 48 (29 working days)