

INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	July 5, 2016
SUBJECT/REPORT NO:	Appeal to the Ontario Municipal Board (OMB) on the City of Hamilton's Refusal or Neglect to Adopt an Amendment to the Town of Flamborough Zoning By-law No. 90-145-Z for Lands Located at 383 Dundas Street East and 4 First Street (Waterdown) (PED16139) (Ward 15)
WARD(S) AFFECTED:	Ward 15
PREPARED BY:	Madeleine Giroux Planner II (905) 546 - 2424 Ext. 2664 Steve Robichaud Director of Planning and Chief Planner
SUBMITTED BY: SIGNATURE:	Jason Thorne General Manager Planning and Economic Development Department

Council Direction:

In accordance with subsection 34(11) of the *Planning Act*, a Zoning By-law Amendment application may be appealed to the Ontario Municipal Board (OMB) after 120 days if Council has not made a decision on the application.

A motion to direct staff to advise the Planning Committee on matters relating to appeals regarding lack of decision by Council pursuant to the *Planning Act* was passed by City Council on May 18, 2010. This Information Report was prepared in accordance with Council's policy for staff to advise the Planning Committee and City Council of appeals for non-decision to the OMB.

The following information is provided for Planning Committee's information with regards to Zoning By-law Amendment Application ZAC-15-055 for 383 Dundas Street East and 4 First Street (Waterdown), which has been appealed to the OMB for lack of decision.

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Information:

The subject lands are municipally known as 383 Dundas Street East and 4 First Street and are located in the easterly portion of Waterdown, north of Dundas Street East and east of First Street (see Location Map attached as Appendix "A" to Report PED16139).

The lands are surrounded to the west by the Margaret Gardens Subdivision (registered 1974), to the north by the Balgownie Meadows Phase 1 (1984), Phase 2 (1986), and Phase 3 (1988) Subdivisions, to the east by the Niska Drive Subdivision (1975), and to the south by the Waterdown Bay Phase 1 Subdivision (2011). The lands surrounding the subject site consist predominantly of single detached dwellings, and the lands located to the south of Dundas Street East are zoned Conservation / Hazard Land (P5) Zone in the City of Hamilton Zoning By-law No. 05-200.

The lands subject to this application consist of two properties. The property located at 383 Dundas Street East is generally rectangular in shape, with a lot frontage of 72.66 m, a depth of 118.23 m, and an area of 0.85 ha. The property located at 4 First Street is a corner property, generally rectangular in shape, with a frontage of 56.0 m along Dundas Street and 65.77 m along First Street, and with an area of approximately 0.41 ha.

The combined properties currently contain a garden centre with associated surface parking, a surface landscape storage area, an aluminium sided barn (accessory building) on the northeasterly corner of the property, and an existing one-storey brick single detached dwelling located on the northwesterly corner of the property, fronting onto First Street. The dwelling is located entirely on 4 First Street.

The proposal seeks to establish permissions for the development of 81 townhouse units including 29 block townhouses, 14 back-to-back townhouses, and 38 stacked townhouses. There are proposed to be two parking spaces per dwelling unit, provided in a tandem parking arrangement of one parking space located within the attached garage, and one parking space located on the driveway, in addition to 0.25 visitor parking spaces per dwelling unit (see Revised Concept Plan 2 attached as Appendix "D" to this Report).

The existing dwelling is to be retained on a separate parcel, the creation of which was conditionally approved on February 11, 2016 through Consent for Severance application FL/B-15:129. A condition of this Consent for Severance application is the approval of a Zoning By-law Amendment application to establish an Urban Residential (Single Detached) "R1" Zone on the newly created parcel, whereas the property is currently zoned Highway Commercial "HC-2" Zone, Modified in the Town of

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Flamborough Zoning By-law No. 90-145-Z. The Consent for Severance application has not been appealed.

It is staff's understanding that the Zoning By-law Amendment application was appealed by the applicants in order to ensure that a timely decision is made by the OMB, in turn to ensure that the Consent application decision does not lapse.

The application was originally submitted on October 7, 2015, and deemed complete on October 21, 2015. Two revisions to the original application, including one informal resubmission and one formal resubmission with a scoped circulation, have been submitted since that time. In addition, a community meeting that was hosted by the applicant was held on March 2, 2016. The submissions are summarized as follows:

1. Original Submission – October, 2015 – consisting of a total of 79 townhouse units comprised of 21 block townhouses, 42 back-to-back townhouses, and 16 stacked townhouses, with vehicular entrances proposed from Dundas Street East and from First Street. The proposal included a single-loaded condominium road to be located a minimum distance of 1.31 m from the easterly lot line. A total of two parking spaces per dwelling unit were proposed, in addition to 0.20 visitor parking spaces per dwelling unit (see Original Concept Plan attached as Appendix "B" to this Report). The overall density was proposed to be approximately 71.8 units per net residential hectare, not including the portion of land to be severed for the existing single detached dwelling.
2. 2nd Submission – February, 2016 – consisting of a total of 83 townhouse units comprised of 22 block townhouses, 24 back-to-back townhouses, and 37 stacked townhouses, with vehicular access from Dundas Street East and emergency vehicle / pedestrian only access from First Street. The proposal maintained the single-loaded condominium road, but it was to be relocated less than 1.0 m from the easterly lot line. A total of two parking spaces per dwelling unit were proposed, in addition to 0.20 visitor parking spaces per dwelling unit (see Revised Concept Plan 1 attached as Appendix "C" to this Report). This revision was presented at the community meeting held by the applicant on March 2, 2016. However, as no hardcopies of this revision were received by staff, nor did the applicant propose to formally revise the application, it did not form part of a formal resubmission and accordingly was not circulated for comment. The overall density was proposed to be approximately 75.5 units per net residential hectare, not including the portion of land to be severed for the existing single detached dwelling.
3. 3rd Submission – March, 2016 – consisting of a total of 81 townhouse units comprised of 29 block townhouses, 14 back-to-back townhouses, and 38 stacked townhouses, with vehicular access from Dundas Street East and emergency

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vehicle / pedestrian only access from First Street. The revision eliminated the single-loaded condominium road adjacent to the easterly lot line, and proposed a total of two parking spaces per dwelling unit in addition to 0.25 visitor parking spaces per dwelling unit (see Revised Concept Plan 2 attached as Appendix "D" to Report PED16139). This revision formed part of a formal resubmission which was received on March 24, 2016, and circulated for technical comment on March 29, 2016. A Traffic Impact Study was also received on April 27, 2016 and circulated for comment on May 2, 2016, which was eight days prior to the appeal of the application to the OMB. The overall density is proposed to be 73.6 units per net residential hectare, not including the portion of land to be severed for the existing single detached dwelling.

The most recent submission was in response to concerns raised at the community meeting and by Planning staff relating to urban design and compatibility in terms of setbacks and rear yard privacy. The third revision eliminated the need for rear yard setback reductions from the parent Medium Density Residential "R6" Zone provision in the Town of Flamborough Zoning By-law No. 90-145-Z for block townhouses where they abut existing single detached dwellings.

The subject lands are identified as "Neighbourhoods" on Schedule "E" – Urban Structure and designated as "Neighbourhoods" on Schedule "E-1" – Urban Land Use Designations, in the UHOP. The subject lands do not form part of a Secondary Plan.

The subject lands are currently zoned Highway Commercial "HC-2" Zone, Modified in the Town of Flamborough Zoning By-law No. 90-145-Z. The site specific zoning by-law permits a garden centre, subject to the regulations contained within the parent Highway Commercial "HC" Zone. Through the amended Zoning By-law Amendment application, the applicant is proposing to rezone the subject lands to a site specific Medium Density Residential (R6) Zone (for the townhouse block) and an Urban Residential (Single Detached) "R1" Zone (for the single detached dwelling block) in the Town of Flamborough Zoning By-law No. 90-145-Z.

However, significant issues remain with respect to neighbouring residents' concern over density, safety, and traffic generation, in addition to adjacent developer concerns over stormwater management, servicing, and traffic.

The appeal to the OMB was received by the City Clerks' office on May 10, 2016, 216 days after the receipt of the initial application.

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APPENDICIES AND SCHEDULES ATTACHED:

- Appendix "A": Location Map
- Appendix "B": Original Concept Plan
- Appendix "C": Revised Concept Plan 1
- Appendix "D": Revised Concept Plan 2
- Appendix "E": Letter of Appeal

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