



INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	February 20, 2018
SUBJECT/REPORT NO:	Appeal to the Ontario Municipal Board (OMB) for Lack of Decision on Urban Hamilton Official Plan Amendment Application UHOPA-13-008, Town of Flamborough Zoning By-law No. 90-145-Z Amendment Application ZAC-13-039 and Draft Plan of Subdivision Application 25T-201306 for Lands Located at 111 Parkside Drive (Flamborough) (Ward 15) (PED18037)
WARD(S) AFFECTED:	Ward 15
PREPARED BY:	Brynn Nheiley 905-546-2424 Ext. 4283
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

Council Direction:

In accordance with the provisions of the *Planning Act* in effect at the time of the application, specifically subsections 17 (40), 17 (40.1), 22 (7), 34 (11) and 51 (34), an Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Application may be appealed to the Ontario Municipal Board (OMB) after 270 days (Official Plan Amendment Application), 120 days (Zoning By-law Amendment Application) and 180 days (Plan of Subdivision Application) if Council has not made a decision on the Application. These regulations and timelines are based on the *Planning Act* prior to the Royal Assent of Bill 139 on December 12, 2017 which will amend the *Planning Act*.

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 has been 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 Urban Hamilton Official Plan Amendment Application UHOPA-13-008, Zoning By-law

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Amendment Application ZAC-13-039 and Plan of Subdivision Application 25T-201306, which have been appealed to the OMB for lack of decision.

Information:

The subject lands municipally known as 111 Parkside Drive are located on the north side of Parkside Drive. The site is accessed via Sadielou Boulevard (see location map attached as Appendix “A” to Report PED18037). The Applicant is Metropolitan Consulting Incorporated.

The subject lands are surrounded to the north by agricultural lands, including an Environmentally Sensitive Area and Provincially Significant Wetland, to the east by agricultural lands which have received Draft Plan Approval, and to the west by agricultural lands and an easement for Imperial Oil Limited. To the south are lands developed by Silverwood Homes (Owner), in Phase 1 (25T-200621), including reserved neighbourhood park space, semi detached dwellings and townhouses. These Applications are considered to be Phase 2 / 3 of the development of lands owned by Silverwood Homes (Owner).

The subject lands make up an irregular shaped site with a frontage of 205 m, an area of 7.27 ha to the south of Borer’s Creek and 14 ha located north of Borer’s Creek (see Draft Plan of Subdivision attached as Appendix “B” to Report PED18037).

Background:

These Applications were predated by the Flamborough Official Plan Amendment Application (OPA-12-016), Town of Flamborough Zoning By-law No. 90-145-Z Amendment Application (ZAC-12-041) and Draft Plan of Subdivision Application (25T-200621, which proposed to construct the following:

- Blocks 1-3: a mix of semi detached units, duplexes and / or street townhouses and back-to-back townhouses at a density of 70 to 100 residential units per net residential hectare;
- Block 4: a mix of multiple dwelling units, including townhouses, apartments and other forms of multiple dwellings to a maximum of 15 storeys, at a density of 100 to 125 residential units per net residential hectare, accessed via a public local road;

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- Lands to the north of the future public east-west arterial road including Borer's Creek and Environmentally Sensitive Areas with buffering setbacks to be preserved; and,
- Lands to the north of the Environmentally Sensitive Areas are located outside of the Urban Boundary, in the rural area, and were not included for development in these Applications. However, these Applications proposed to access these lands via a public local road, identified as Street "A", which crosses Borer's Creek and the Environmentally Sensitive Areas.

Chronology:

<u>February 22, 2011:</u>	Formal Consultation FC-10-131.
<u>February 28, 2011:</u>	Formal Consultation Document sent to Applicant.
<u>September 24, 2012:</u>	Application submitted for OPA-12-016, ZAC-12-041, 25T-200621.
<u>October 23, 2012:</u>	Notice of Incomplete Application sent to Applicant.
<u>July 29, 2013:</u>	Email to Applicant indicating expiry of FC-10-131.
<u>September 4, 2013:</u>	Memo from Applicant indicating Traffic Impact Study condition of FC-10-131 was complete, and requesting that further Formal Consultation be waived.
<u>September 6, 2013:</u>	Application submitted for 25T-200621. This application replaced the prior applications of September 24, 2012.
<u>September 12, 2013:</u>	Application submitted for OPA-13-008, ZAC-13-039. This application replaced the prior applications of September 24, 2012.
<u>October 4, 2013:</u>	Applications deemed complete.
<u>October 8, 2013:</u>	Notice of Complete Applications sent to Applicant.

These Applications were circulated to Agencies and Departments and a range of comments were received. The most significant issue was the proposed crossing of the

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Environmentally Sensitive Area by Street “A” and the proposed extension of that street past the Urban Boundary into the rural area.

January 29, 2014: Applicant submitted a revised Draft Plan of Subdivision, subject to this Appeal to the Ontario Municipal Board.

Applications:

Official Plan Amendment Application, as revised on January 29, 2014:

The purpose of this Application is to permit the redesignation of two (2) blocks comprising 0.95 hectares between McCurdy Avenue and the proposed future public east-west arterial road, from Low Density Residential 2 to the Medium Density Residential 4 designation. This change is proposed to allow the blocks to be developed with a mix of housing types to permit higher density forms of development in the range of 70-100 units per hectare.

In addition, the Official Plan Amendment Application is required to permit the building height in the High Density Residential 1 designation (Block 3) to be approximately 18 storeys (55m), whereas the maximum permitted building height in this designation is 15 storeys.

Zoning By-law Amendment Application, as revised on January 29, 2014:

The purpose of this Application is to amend the Flamborough Zoning By-law No. 90-145-Z for lands which are part of the proposed Draft Plan of Subdivision in order to permit the following:

- medium density residential blocks which may include street townhouses, townhouses, back-to-back townhouses, stacked townhouses and apartment buildings within a Site-specific Medium Density Residential “R6” Zone (Blocks 1 and 2). Specific provisions are proposed in the draft amending by-law for various housing forms to address minimum setbacks, densities, maximum building height, required planting strips, and maximum yard encroachments, among other things; and,
- a medium-high density residential block which may include townhouses, back-to-back townhouses and apartments (up to 18 storeys) within a Site-specific Medium-High Density Residential “R7” Zone (Block 3). Specific provisions are proposed in the draft amending by-law for various housing forms to address setbacks, densities,

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maximum building height, required planting strips, and maximum yard encroachments, among other things.

Draft Plan of Subdivision (25T-201306), as revised on January 29, 2014:

The purpose of the Draft Plan of Subdivision Application is to establish Phase 2 / 3 of the development for lands owned by Silverwood Homes which are situated adjacent to, and north of the future east-west arterial.

The proposed Draft Plan of Subdivision consists of the following:

- Blocks 1 and 2: comprising 0.95 hectares (instead of 0.84 hectares of the previous Application) for street townhouses, townhouses, back-to-back townhouses, stacked townhouses and apartment buildings, permitting up to 125 units per hectare, located south of the future public east-west arterial road;
- Block 3: 2.86 hectares (instead of 1.99 hectares of the previous Application) for street townhouses, townhouses, back-to-back townhouses, stacked townhouses and apartment buildings, permitting up to 175 units per hectare, located north of the future public east-west arterial road; and,
- Extend Sadielou Boulevard from McCurdy Road to provide direct access to the east-west arterial.
- This revision addressed concerns of Street “A” by eliminating the proposed street.

This revision was recirculated with comments forwarded to the Applicant beginning May 13, 2014. Comments from the Hamilton Conservation Authority were delayed by flood control work on Borer’s Creek which would impact the Application. These comments were provided by the Applicant on July 28, 2015. Comments included, but were not limited to:

- Stormwater management measures require more information for assessment;
- A hydrogeological report is required to demonstrate no negative impacts to public stormwater systems or to the Environmentally Sensitive Area;
- Updated delineations of the flood and erosion hazard limits and wetland boundaries on the plans and drawings are required; and,

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- The revised Environmental Impact Assessment was unchanged from previous applications and was therefore unable to be assessed.

Staff followed up with the Applicant on three (3) occasions to seek responses or revisions based on the comments that were provided:

- January 20, 2015;
- February 19, 2015; and,
- September 9, 2015.

No response or revisions were received by Staff until September 19, 2017, when City Staff became aware that representation of Silverwood Homes (Owner) had changed from Metropolitan Consulting Inc. (Applicant), to WEBB Planning Consultants Inc.

On October 19, 2017 WEBB Planning Consultants Inc. submitted a new concept plan for consideration, and met with City Staff on October 20, 2017. The purpose of the meeting was to determine how to resume the planning process, given the duration of inactivity of the Applications.

The October 19, 2017 concept plan proposes to construct the following:

- Blocks 1-3: not included in concept sketch plan, therefore assumed to be unchanged from previous submission;
- Lands north of the future public east-west arterial road: three (3) buildings of 10 to 12 storeys each, containing 120 dwelling units each, and includes 465 surface parking spots. The proposed density is 126 units per hectare, accessed via two (2) private driveways off of the future public east-west arterial road; and,
- Lands to the north of the future public east-west arterial road, include Borer's Creek and Environmentally Sensitive Areas with buffering setbacks to be preserved.

Development of land to the north of the Environmentally Sensitive Areas has not been included in this concept. There was a general discussion between Staff and WEBB Planning Consultants Inc. of the necessity to revise any reports or studies that will be impacted by changing the development proposal. To date the Applicant has not submitted any revised documentation, as discussed at the October 20, 2017 meeting.

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The appeal to the OMB was received by the City Clerks' office on October 30, 2017, 1511 days after the receipt of the initial Application.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A":	Location Map
Appendix "B":	Draft Plan of Subdivision
Appendix "C":	Appeal Letter

BN:jp