



A. J. Clarke and Associates Ltd.

SURVEYORS • PLANNERS • ENGINEERS

File No. 158007

March 18th, 2019

The City of Hamilton
Office of the City Clerk
71 Main Street West, 1st Floor
Hamilton, Ontario
L8P 4Y5

Attn: Chairman and Members of Planning Committee
c/o Ms. Lisa Chamberlain, Legislative Coordinator

Re: Modifications and Updates to the City of Hamilton Zoning By-law No. 05-200 (PED19029) (City Wide) With Respect to 906 Main Street West

We represent Adorn Investments Limited, who is owner of the lands municipally known as 906 Main Street West, Hamilton (“**Subject Lands**”). The lands are located on the north side of Main Street West, between Longwood Road South and Bond Street South.

Executive Summary and Request

The intent of the letter is to request an amendment to Special Exception 310 of the City of Hamilton Zoning By-law 05-200 in order to remove the minimum interior side yard setback requirement adjacent to an existing residential use that is within the TOC1 Zone. The intent of the TOC1 Zone is to enable these low density residential uses to comprehensively redevelop over time, consistent with Official Plan policy.

Background and Rationale

The Subject Lands have a significant history with respect to the City’s ongoing development of Zoning By-law 05-200. A brief summary of activity on the property is included below:

- June, 2015 – The Formal Consultation (“**FC**”) Meeting was held for a proposed 543m² office building on the subject lands.
- October, 2015 – Council adopts By-law No. 15-245, which enacts an Interim Control By-law to “freeze” development for a period of one year while Staff undertake planning studies associated with the future Light Rail Transit corridor.
- March, 2016 – A revised 4 storey development concept was submitted to the City and an addendum to the June 2015 FC was received to acknowledge new Planning Act submission requirements.
- October, 2016 – Council Approved the Transit Oriented Corridor Zoning for Wards 1-4 (by-law 16-265). The Subject Lands are rezoned to the Transit Oriented Corridor – Mixed Use “**TOC1**” Zone. The interior side yard requirement for a TOC1 Zone within By-law 16-265 is “7.5 metres abutting a Residential or Institutional Zone”. Through coordination with Staff and a delegation by our office at the October 4th, 2016 Planning Committee, a site specific was included (Special Exception 310), which recognized that:



“Notwithstanding the definition of Front Lot Line found in Section 3 of this By-law, on those lands zoned Mixed Use (TOC1) Zone, identified on Maps 907 and 949 of Schedule “A” - Zoning Maps and described as 906 Main Street West, the Front Lot Line shall be deemed to be Main Street West”

During our discussion with Staff regarding the above site-specific Special Exception; it was acknowledged that it was not the intent of the zoning to have large setbacks or “gaps” between buildings within the TOC1 Zone. The sole purpose of Special Exception 310 was to deem Main Street West the front lot line to ensure the 7.5m rear yard requirement was applied to the northerly lot line, and not the westerly lot line.

Accordingly, the front lot line was deemed to be Main Street West (southerly lot line), rendering the easterly lot line with frontage along Longwood Road South an exterior side lot line, the northerly lot line the rear lot line, and the westerly lot line an interior side lot line. The lands abutting the Subject Lands to the west were also rezoned as TOC1 through By-law 16-265, and accordingly no interior side yard was required through the provisions of the TOC1 Zone as approved through By-law 16-265 as the lands did not abut a Residential or Institutional Zone to the west. Note that By-law 16-265 was appealed to the Ontario Municipal Board.

- May 2017 – By-law 16-265 was deemed to be in force and effect on the Subject Lands by Order of the Ontario Municipal Board (PL161168).
- February 2018 – Council approved By-law 18-032, which served to extend the TOC Zoning, create a new TOC Zone, and amend the existing TOC Zones. Section 4.7 of by-law 18-265 modified the interior side yard setback requirement [11.1.3 c i)] as it applies to the Subject Lands by inserting “or a lot contain a residential use”. The lands abutting to the west of the Subject Lands (considered the interior side lot line) are within a TOC1 Zone, but are a single detached residential use. Accordingly, by adding the words “or a lot contain a residential use”, the 7.5 metre setback would now apply to the subject lands; whereas before the setback did not as the lands are a residential use within a TOC1 zone.

As previously mentioned above, the intent of the TOC1 zoning was not to create “gaps” in future development along the LRT corridor, but conversely establish a greater density, intensity of use and compactness of built form along the LRT corridor. Establishing a setback to a residential use within the TOC1 zoning, as opposed to a residential zone, creates zoning that will sterilize future development as the feasibility of development along the corridor will be significantly reduced and/or eliminated in certain locations, including the Subject Lands due to the position of Bond Street South and Longwood Road South. If lands are zoned TOC1 along the LRT corridor, but contain an existing residential use within the TOC1 zoning, the 7.5m setback should **not apply** as the intent of the existing residential use within the TOC1 zone is to redevelop over time to implement the vision of the intensified uses along the LRT corridor.

- April 2018 – The owner submits a proposed development concept for review by the City’s Design Review Panel. This proposed development consists of a mixed use, 6 storey building, with professional offices at grade, and residential units above. The panel is very supportive of the proposed design.



- November 2018 – During the discussions surrounding the initial Special Exception 310 relating to the Subject Lands, Staff had expressed that it was not the intent of the by-law to have large setback requirements or “gaps” between development within the TOC1 Zone. Thus, our office requested an interpretation from Staff with respect to the minimum side yard requirement within the TOC 1 Zone, as amended through by-law 18-032. Staff provided the following response (Please refer to the attached correspondence in Appendix A):

“The 7.5 metre side yard setback requirement under Subsections 10.4.3 c), 10.5.3 c), 10.5a.3 c), 11.1.3 c) i) shall be applied where new development or redevelopment is proposed adjacent to the following situation:

•Lots containing single detached, semi-detached, and duplex dwellings in non-Residential and non-Institutional Zones other than zones within the CMU and TOC Zone Classifications.

This setback requirement shall not be applied where new development or redevelopment is proposed adjacent to the following situation:

•Dwelling units contained in multiple dwellings and / or mixed use buildings.”

Staff clarified that the 7.5m interior side yard setback only applied to single detached, semi-detached, and duplex dwellings in non-Residential and non-Institutional Zones other than zones within the CMU and TOC Zone Classifications. The single detached residential development abutting the subject lands to the west is within a TOC1 Zone. Accordingly, based on Staff interpretation, the 7.5m setback did not apply.

- February 2019 – Staff Report PED19029 was brought before Planning Committee, which contained *further* changes to the TOC1 Zone. This includes further amending the minimum side yard requirement [11.1.3 c) i)] as follows:

“i) A minimum 7.5 metres for lots abutting a ~~Residential Zone or Institutional Zone or lot containing a Residential Use.~~ Single Detached Dwelling, Semi-Detached Dwelling, and Street Townhouse.”

Accordingly, as the Subject Lands abut a single detached residential dwelling to the west, within a TOC1 Zone, a 7.5m setback is once again applicable to the westerly lot line.

Our office is in full support of the minimum interior side yard setback requirement for the TOC1 Zone contained within the initial October 2016 version of the Transit Oriented Corridor Zoning within by-law 16-265. That is why the modification was established in Special Exception 310 so as to protect the interface between the residential zoning to the north by identifying Main Street West as the front lot line. This would ensure that the 7.5m rear yard setback is applied adjacent to the existing residential zoning to the north. Our office is also supportive of the interpretation given by Staff in November of 2018 related to the applicability of the TOC1 interior side yard requirement.

Whereas it is acknowledged that there should be a transition and gradation in height to lower density residential development within a residential zone; applying a 7.5 metre setback to abutting residential development within a TOC1 Zone that is intended for future mixed use, medium density development will not contribute to creating desirable



built form along the LRT corridor. Many other suitable design solutions can be implemented to ensure compatibility with existing adjacent low density residential development within the TOC1 Zone, without compromising the future built form of the area through the implementation of a 7.5 metre setback. These design solutions should be explored on a site specific basis through the Site Plan Control process. It should be noted that a single detached dwelling is not a permitted use within the TOC1 Zone, which provides a clear policy direction that the City is encouraging that these existing low-density residential uses within the TOC1 Zone be redeveloped into a more compact, mixed use, and transit-supportive use, consistent with municipal planning policy.

The intent of the TOC1 Zone is to *"create complete streets that are transit supportive and will provide for active, and pedestrian oriented streets."* The minimum interior side yard setback requirement for the TOC 1 Zone, as proposed within PED19029 will result in large "gaps" between development within the TOC1 Zone. This built form is considered undesirable, particularly when trying to create pedestrian oriented, animated, and attractive streetscapes.

On behalf of our client, we would kindly request that Special Exception 310, applicable to the subject lands, be modified to include a minimum interior side yard requirement of 0m adjacent to a TOC1 Zone, consistent to what was initially approved through By-law 16-265, Special Exception 310, and as interpreted by Staff in November of 2018.

This correspondence should be considered a written submission to Council under the *Planning Act*. Should Special Exception 310 not be modified as requested above, we object to the above outlined modifications to the TOC1 Zone, on the basis that the resultant built-form will not contribute to creating the transit-oriented, compact, and pedestrian oriented environments envisioned for major transit station areas on priority transit corridors under the Growth Plan.

I trust this is satisfactory and thank you for your cooperation in this matter. If you need additional information or clarification regarding the above, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Stephen Fraser'.

Stephen Fraser, MCIP, RPP

A. J. Clarke and Associates Ltd.

Copy – Adorn Investments Limited - Attn: Mr. Dan Gabriele

Copy – Mr. Steve Robichaud – Director of Planning and Chief Planner (via email)



Appendix A

Spencer Skidmore

From: Gravina, Joe <Joe.Gravina@hamilton.ca>
Sent: Tuesday, November 27, 2018 9:06 AM
To: Spencer Skidmore
Cc: Hickey-Evans, Joanne; Fabac, Anita; Giroux, Madeleine; Steve Fraser
Subject: RE: Zoning Interpretation

Good Morning Spencer,

The 7.5 metre side yard setback requirement under Subsections 10.4.3 c), 10.5.3 c), 10.5a.3 c), 11.1.3 c) i) shall be applied where new development or redevelopment is proposed adjacent to the following situation:

- Lots containing single detached, semi-detached, and duplex dwellings in non-Residential and non-Institutional Zones other than zones within the CMU and TOC Zone Classifications.

This setback requirement shall not be applied where new development or redevelopment is proposed adjacent to the following situation:

- Dwelling units contained in multiple dwellings and / or mixed use buildings.

Regards,

Joe

Joe Gravina, CPT

Coordinator of Business Facilitation
Planning and Economic Development Department
Planning Division

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From: Spencer Skidmore <spencer.skidmore@ajclarke.com>
Sent: November 26, 2018 3:33 PM
To: Steve Fraser <steve.fraser@ajclarke.com>; Hickey-Evans, Joanne <Joanne.Hickey-Evans@hamilton.ca>; Gravina, Joe <Joe.Gravina@hamilton.ca>
Subject: RE: Zoning Interpretation

Hi All,

Just a kind follow-up to Steve's email below.

Best regards,

Spencer Skidmore M.Pl.,MCIP,RPP
Planner
A. J. Clarke and Associates Ltd.
Tel: 905 528 8761 x275

From: Steve Fraser
Sent: Tuesday, November 20, 2018 3:40 PM
To: Hickey-Evans, Joanne; Gravina, Joe
Cc: Spencer Skidmore
Subject: Zoning Interpretation

Good afternoon all,

Joanne, you recall at last week's PIC meeting at the David Braley Centre that we discussed the situation where two or more abutting properties are within the TOC zoning and one of them contained an existing residential use, that the 7.5m provision below did not apply and that an interpretation memo was prepared to that effect.

c)	Minimum Interior Side Yard	i)	7.5 metres abutting a Residential Zone or Institutional Zone or lot containing a residential use.
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Can you please confirm same or send the memo if possible?

Thanks,

Stephen Fraser B.A.(Hons), MCIP, RPP
Principal, Planner



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