

Pilon, Janet

Subject: Ward 10 - Initiative CI-20-A Zoning Reclassification 1400 Baseline Road

From: Tammy Felts

Sent: January 28, 2021 7:41 PM

To: DL - Council Only <dlcouncilonly@hamilton.ca>

Cc: clerk@hamilton.ca

Subject: Ward 10 - Initiative CI-20-A Zoning Reclassification 1400 Baseline Road

Dear Honourable Mayor and Councillors;

We, the community who are most impacted by the decisions made by Council, vehemently oppose the actions taken regarding the subject land.

Not only was the public not consulted, but members of Council, internal staff and outside agencies were also not provided with transparent information or pertinent details in order to gain a better understanding of the proposal and its impact.

For the issues summarized below and detailed in the presentation attached, we implore you to halt this initiative and send it back to the Planning Committee for reconsideration and input from all the Stakeholders.

ISSUES

- 1) No Public Notice Board was posted nor was a Request for Public Input received by any of the residents within 120 metres of the subject land.
- 2) Internal Staff were not given sufficient information to properly evaluate the ZBA that Council is scheduled to approve on February 10, 2021.
- 3) Relevant Consultation with all Stakeholders and Agencies was not conducted.
- 4) Hamilton Conservation Authority was not consulted or notified of the ZBA.
- 5) Insufficient Documents/Studies to support the ZBA, include, but not limited to:
 - Hydraulic Analysis was not conducted
 - Market Impact Study was not conducted.
 - Financial Impact Analysis was not conducted.
 - Traffic Impact Study was not conducted.

- Parking Demand Study was not conducted.

- Transportation Demand Management Report was not conducted.

6) Pertinent Information (Massing exercise) was not provided.

7) Insufficient Infrastructure

8) Degree of Miscommunication.

Respectfully;

Tammy Felts, President WCECC #479

Ross Crompton, Director WCECC #479

Linda MacMillian, Director WCECC #479

If the intent of all of our land use planning tools is to build strong complete communities that are economical, healthy & climate resilient, rezoning the subject land at this time is wrong. Fundamentally wrong on so many levels.

On the surface, this Official Plan Amendment and Zoning By-law Amendment might appear to result in approval of a gentler form of intensity in the right location and was passed following a process that complied with both the letter and the spirit of the Planning Act, the Provincial Policy Statements, the Growth Plan and the Urban Hamilton Official Plan.

The Community disagrees.

The Planning file overall, is incomplete.

Had we been given Notice of the statutory Public Meeting, a presentation along the lines of the attached would have been made on January 12, 2021.

Please read the attached and
Ask yourself...

Is this a City Initiated Official Plan Amendment and site specific Zoning By-law amendment, with modifications, that passes the sniff test?

Insufficient Consultation from Boards/Agencies (Prescribed Bodies):

The Staff Recommendation is silent on comments from Hamilton Conservation Authority.

The Planning file document, Request for Comments Circulation dated February 12, 2020, did not include outside boards/agencies; such as, but not limited to the Hamilton Conservation Authority.

We have contacted HCA directly and have been advised that HCA did receive a request to comment on the OPA (only) and they had no concerns on the OPA (only)

The Hamilton Conservation Authority has “***no record of a Zoning being circulated***”. (Source: Deputy Chief Administrative Officer/Director, Watershed Planning & Engineering, Hamilton Conservation Authority)

In addition, Environment Hamilton, who receives notifications for all city-wide land use changes, also did not receive a notice of the statutory public meeting that was held on January 12, 2021. (The courtesy mailer)

Insufficient Internal Consultation/ Miscommunication to Internal Staff:

Internal Staff were asked for their comments in February 2020 on a proposed Official Plan Amendment and were advised that:

“The zoning will remain unchanged (currently zoned Neighbourhood Development (ND) Zone in the Stoney Creek Zoning By-law). A Zoning By-law Amendment will be required when development occurs on the property.” (Emphasis Added)

Hence, the comments listed in the Staff Recommendation provided to Planning Committee on January 12, 2021 for the most part were comments supporting the Official Plan amendment and **only** the Official Plan amendment.

Most of the City’s Internal Staff have not even been made aware of the proposed Zoning By-Law amendment; let alone provided comments or evaluated a change in zoning that contains numerous variances to the parent zoning regulations. (Source: Planning File access expires Feb 10th: <https://cityshare.hamilton.ca/s/Rg47ae594k23Frb>)

It is also interesting to note that undue pressure was placed on Internal Staff during a time that can only be described as utter chaos. The request to comment was dated February 12, 2020 and the deadline for comments back to Planning staff was March 3, 2020.

The lack of Public consultation aside, the insufficient internal consultation clearly indicates a fulsome evaluation of the Zoning By-law amendment, (with modifications and with a Holding provision) was not conducted.

Insufficient Infrastructure:

The Lakeshore Area Secondary Plan was planned to accommodate an ultimate population of approximately 15,500 persons based on full municipal services (Source: Lakeshore Area Secondary Plan, Stoney Creek Official Plan).

The Lakeshore Area Secondary Plan was composed of the lands from Grays Road to the west city limits (Grimsby), north of the QEW. That Planning Area comprised the Lakeshore, the Bayview, the Trillium, the Winona North and the Fifty Point neighbourhoods.

Upon approval of the Urban Hamilton Official Plan, the Lakeshore & the Bayview districts remained as neighbourhood plans and the Trillium, the Winona North & Fifty point areas were adopted as the areas in a revised newly titled Urban Lakeshore Area Secondary Plan.

The subject land was designated Low Density Residential 2 b which aligns with **the existing water/sanitary capacity of ~ 29 units / hectare.**

Growth Management Staff Input, October 2020:

“At limit” re: water-flow,

“Strongly suggest” Hamilton Water Staff provide input at this stage, (Note: inconclusive if HW Staff did or not)

*“**70 people** per hectare assigned” / “population density” proposed “exceeds design” capacity*

*“Hydraulic analysis should be done **prior to zoning approval**”*

A Hydraulic Analysis was not conducted.

Miscommunication to Growth Planning Staff

The initial request for comments to Growth Planning Staff was in February 2020. As mentioned previously, all internal Staff, including GP Staff at that time was advised that **“The zoning will remain unchanged”** (Emphasis added)

Further communication in the Fall of 2020 (to GP Staff only) references a Rezoning proposal in addition to the OPA however, the additional communication to GP Staff was also inaccurate.

GP Staff were advised that “Council approved a motion for medium density” on the subject land.

The Council approved Motion in April/May 2019 **did not** approve “medium” density. The Motion directed staff to “investigate amending” and provide a report that “reflects the highest/best use”.

(As an aside, even if Council did at some point provide Direction for medium density, the RM3 medium density zoning regulation is 40 units/hectare (to a max of 49 units if all tenant parking is underground. As a reminder, this ZBA has modified the ‘medium’ density RM3 zoning to 99 units/hectare)

While Planning language might be confusing to the general public; internally, clear language between professional planners is paramount to ensure the principles in planning are complied with during the evaluation.

Lack of Documents/Studies to Support the ZBA, with modifications

In addition to the comments from Growth Management Staff outlined on the previous slide, the following comments/concerns are noteworthy:

Growth Planning Staff stated, among other matters *“It should be determined if a Noise Study will be required”*

Noise Studies are generally conducted in 2 phases:

1. A Feasibility study at time of OPA/ZBA and;
2. A Detailed study at Site Plan stage.

A feasibility Noise Study was not conducted.

Without a proposed Conceptual Plan of a potential built form, there is no documentation on file which adequately supports a planning opinion that a change in land use (higher height/alternative built form) will conform to MoE guidelines and by extension the Urban Hamilton Official Plan.

As residents who live along the QEW, we can attest to the fact that “noise” is an Issue.

A feasibility Noise Study should have been completed prior to recommending approving a change in the Zoning.

Lack of Documents/Studies to Support the ZBA, with modifications

Finance Staff stated that there is a *“Municipal Act Best Efforts” storm and water-main outstanding charge of approximately \$64,000 due at the water/sewer permit stage.*

We are not sure, but we believe this might mean the existing storm/water-main designed to accommodate 29 units / hectare was paid for by another developer (the ‘oversizing’ developer) and that the City has a moral obligation to recover that cost on behalf of the oversizing developer?

In other words, the City, upon selling the land will impose a repayment obligation of \$64,000 on the subsequent developer at the time of permit stage; is that correct?

Fiscal Considerations (Growth Plan 2020 and PPS 1.1.1(a))

Fiscal impacts were not part of the Planning process, however, due to this unique piece of land, Council should have been provided with details on Fiscal impacts during their consideration of this ZBA to ensure the change in land use will not have an unreasonable or unanticipated financial impact on the municipality.

There was no Financial Impact Analysis conducted.

There was no Market Impact Study conducted.

Lack of Documents/Studies to Support the ZBA, with modifications

Waste Collection Staff stated they have “*no comments **on the OPA***” (Emphasis added)

Waste Collection Staff are not aware of the ZBA and contrary to the Staff Report, they haven’t commented on whether or not they support the ZBA.

Lack of Documents/Studies to Support the ZBA, with modifications

Transportation Planning Staff stated that the OPA can “*likely be accommodated*” “*but a Traffic Impact Study is required for future development application*.”

The Staff Report provided to the Public and discussed at Planning Committee, misquoted TP Staff’s comments to: “is required for future Site Plan development application”

A zoning by-law amendment, by definition (UHOP, Glossary Chapter) is a development application.

Transportation Planning Staff were not made aware of the ZBA and there is no Traffic Impact Study on file.

The Staff Report, and planning file, is silent on the Vehicle Dependency specific to the subject land and in the community of Stoney Creek

Additional car dependent housing units = more vehicles on the road
Additional housing units in a Transcab area – exponentially increases the number of vehicle trips on the road
(One Transcab vehicle per usage = 2 vehicle trips)

Lack of Documents/Studies to Support a reduction in parking spaces (the ZBA, with modifications)

Transportation Planning Staff (a Parking Technologist) has not provided a planning opinion on the modifications to the parent Parking regulations.

No Parking Demand Study is on file to justify the proposed parking supply reduction.

No additional resources, such as the Transportation Tomorrow Survey, the Institute of Transportation Engineers (ITE) Parking Generation Manual 5th Edition, nor the Ward 10 profile (Stats Can) data are referenced in the planning file as tools that have been used for evaluating the parking needs in the area.

The Staff Report, and file, is silent on the increased needs in this specific area of Stoney Creek. (Increased needs due to the overflow of vehicles from a major Conservation area, inefficient Transcab service/destination*, home occupation work vehicles, motor homes/boats/trailers, for example)

Planning Staff have overlooked the significant details in the parent RM3 Zoning Regulations for apartments and by extension, have miscommunicated the standard parking requirements as per the Zoning By-law passed by previous Town of Stoney Creek Council.

Previous elected officials recognized that apartments (higher densities) in certain areas requires enhanced parking spaces over and above what is adequate for apartments in areas serviced with HSR regular transit routes .

As such, the RM3 parent regulation is written to allow the decision makers to choose whether (a) 2.1 parking spaces per unit (regardless of # of bedrooms) or (b) 1.6 parking spaces per 1BR unit & 1.85 parking spaces per 2 BR units.

The Planning file is silent on which option the Zoning Approvals staff would or wouldn't support.

**Example, recent Amazon announcement for 1500 jobs in Hamilton with a facility located in the SC Biz Park. Transcab is not an option from the subject lands to the SC facility located only a couple of kms away – can't use in the 'zone'*

Lack of Documents/Studies to Support the ZBA with modifications

Municipal Parking Staff – weren't asked to provide comments??!! (Planning File is void of any)

The residents of this neighbourhood are fully aware of the negative impacts of spillover parking on the streets.

It is highly likely Municipal Parking Staff would have some comments and be able to provide Council with the historical number of parking infractions (including vehicles parked on our lawns)

It is also likely Municipal Parking Staff can provide relevant consultation on issues other areas have experienced, after full build-out, when parking spaces are reduced to 1 per unit. (Example Sapphire condos, Shoreview Place)

Amending our Zoning By-laws doesn't change human behaviour.

Drastically reducing our parking requirements (in certain areas of the city) simply downloads future costs to another area & overall, adversely impacts future city resources (employee expenditures) in the municipality.

ALTERNATIVE MODES OF TRANSPORTATION (Active Transportation – non-motorized travel) (Growth Plan 2020, Section 2, Managing Growth)

A Transportation Demand Management Report has not been conducted

A Transportation Demand Management Report should have been required to ensure the development application (ZBA) was adequately evaluated.

Lack of Documents/Studies to Support the ZBA, with modifications

Massing

At some point between May 2019 and February 2020, Planning Staff carried out a massing exercise.

The Planning File provided to the Public does **not** include Concept Plans (pertinent details on massing which is a basic requirement under the regulations for infill residential in an established area).

No Sun/Shadow Study on file that supports the increase in height to 33ms (from the parent RM3 zoning regulation of 11 ms)

No 45 degree Angular Plane document on file that supports the change in yard setbacks

No planning study on file that supports reducing the 'parent' rear yard setback.

No planning study on file that supports removing Street Townhomes (Section 6.10.4) as an allowable form of housing from the parent RM3 zoning regulation.

The Zoning By-law:

It has been stated that the eventual built form is underdetermined. "Might be townhomes **or** an apartment" It is both!!

Initially we thought that the wording in the ZBA that is before Council was a temporary Zoning By-law amendment which was destined for even more density on the subject land (bait & switch? height/density creep? Whatever the terminology) partially because, but not limited to the following:

- 1. An 11 m high townhouse/maisonette build has a 7.5m front and side yard setback whereas an 11 m high apartment build has a setback 11ms*

2. The maximum height (expressed in metres) in the ZBA doesn't correlate to the maximum number of storeys in the OPA. (Typically, residential floors of an apartment building are 3.1-3.3 metres in height. Although 9 storeys maximum height is stated in the OPA, the ZBA states 33 ms which is typically 10 storeys)

3. The side yard is designated in the ZBA as the east property line which abuts the rear yard of the condo towns to the east. (Typically, during a planning review the city has taken this into consideration and amended the setbacks to be in line with 'rear' yard setbacks of 15 ms)

4. The front yard and side yard setbacks for an apartment build have been modified significantly. We had initially thought this meant a 33m high apartment would be setback 33 metres. This didn't make sense to us. Specifically the ZBA states that the maximum height of an apartment is 7.5ms with a 7.5m setback from the front and east side property lines. This height can be "equivalently increased as yard increases beyond the minimum ... to a maximum of 33 metres.

In other words, we initially read this as a 33 m high apartment requires: a 33ms setback from Baseline Road, a 33ms setback from the east side property line, a 14 ms setback from the south property line (NSR); and a 7.5m from the flankage yard property line (Lockport Way). Which on first read, seemed to direct a build pushed to the south & west with a surface parking lot footprint greater than the build.

As we were trying to figure out the answers to these questions on our own, we teared up in frustration. Then we dug deeper and we realized – we should have been tiering up.

The ZBLA is not just site-specific zoning amendment that will guide future land use. **It is written in such a fashion that it is design specific .**

On the one hand we commend our Planning Staff for an enhanced level of detail and thinking through land-use, but in this case, the 'boxing in' of one (maybe 2) specific forms of development has us wondering if Public funds (city resources: staff, elected officials, time, equipment) is being used appropriately?

And to do all this without transparency to the Public/Council, as a whole, is beyond our comprehension. Is this truly acting in the best interests of all Stakeholders?

Although we vehemently disagree with:

*(a) the goal of maximizing the sale price of this public asset being a driving force behind a change in land use; and
 (b) Punting a development and all the studies that form a 'complete application' under the Planning to Site Plan; and
 (c) Punting basically ALL studies outlined in our UHOP to Site Plan stage (which is outside of the public process & takes away the Public's right to appeal should Issues of Merit arise when said studies are conducted),
 We are of the opinion the ZBA, as worded, results in a potential build that has intended mass that has not followed a process that is transparent & has not demonstrated consistency/inconsistency with our UHOP. - **a block townhouse complex setback 7.5ms with a tiered 33ms (9 / 10 storey) apartment is out of character for the neighbourhood.***

INSUFFICIENT INFORMATION TO THE PUBLIC, THE PLANNING COMMITTEE & COUNCIL:

As we were struggling with trying to understand the wording in the ZBA versus the information that was provided to conform to the Planning Act requirement that the Public be provided with a general understanding of what is being proposed, We realized that Planning Staff and our elected representative have known since February 2020 exactly what form of housing is planned for on this subject land.

The Zoning by-law & OPA before Council is intended to accommodate a 'complex' (similar to the one under development at Fruitland Rd & NSR):

- **A 9 storey apartment with 3 storey block townhomes (back to back maisonettes)**
- **Set back 7.5ms from the west, north & east property lines.**
- **A complex with 112 housing units**
- **At a density of 96 units / hectare.**

A build that is visually similar (but higher) to these renderings:



(A little ironic that the land was purchased for a “Welcome to Hamilton” landmark)

‘More Affordable’ Housing (Housing Mix) and More ‘Affordable Housing’:

(Please note the distinction between *‘more affordable’* housing and more *‘affordable housing’*; which is outlined in the next section).

The Staff Recommendation and Staff Presentation alluded to *‘more affordable’* housing in the neighbourhood will be provided by providing a form of housing that is less costly to purchasers.

The Planning File is **void** of any evidentiary documentation to substantiate that *‘more affordable’* housing will be provided.

Without a floor plan / details on mix of bedrooms, size of unit &/or comparables by a Real Estate expert that has studied the area, any planning opinion is simply an assertion of a belief.

More ‘Affordable Housing’ / (Infrastructure)

In our respectful opinion, the eventual disposition of the sales proceeds should not have played a part in the *‘planning’* process, or the deliberations.

The ends do not justify the means.

IN CLOSING

Provincial directives have been written in such a fashion that as a society, we are to rethink the land use, the mobility ... the whole picture ***and its impact.***

We hope the comments and information we have provided will prove to Council that this OPA/ZBA should be sent back to Planning Committee for reconsideration and further direction; starting with a Public Notice Board and a Request for public input, (Notice of incomplete non-application) which are both statutory requirements in the Ontario Regulations circling in the community. **(On plain reading, there are no exemptions for city-initiated site-specific development proposals)**

The OPA before Council is a more restrictive use of the land – Residential housing only. The vacant land can already provide housing through the UHOP designation of ‘Neighbourhoods’ and leaves the door open for other plans an outside developer might have – Mixed Use, Commercial, etc.

The ZBA before Council is not a ‘development proposal’ that has gone through a process which demonstrates feasibility and impacts of the variances (density, parking, etc) to the standard RM3 zoning regulations.

The ZBA before Council is a development proposal that exceeds the capacity density of the existing infrastructure. Infrastructure capacity which aligns with the growth planning previously conducted and growth planning that was based on previous Councils’ approval of the existing Urban Lakeshore Secondary Plan designation.

For all the reasons previously mentioned, and more, we hope Council recognizes that many holes exist and that it is quite likely, should Council approve the OPA/ZBAs, this will be headed to the Local Planning Appeal Tribunal and an Appeal filed on behalf of the residents of Ward 10. We are being open, transparent, honest and sincere. It is the opinion of the many residents who live, work or play in the area, that the planning process has been brutally inadequate.

Valuable public funds should not be spent to fight the public. Valuable city resources should be spent on a ‘Redo’.
Thank you for your time.