




INFORMATION REPORT

TO:	West Harbour Development Sub-Committee
COMMITTEE DATE:	November 26, 2024
SUBJECT/REPORT NO:	Pier 8 Development – Status Update (PED24162) (Ward 2)
WARD(S) AFFECTED:	Ward 2
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The purpose of Report PED24162 is to provide a status update on the Pier 8 Development Agreement between the City and Waterfront Shores Corporation (hereon referred to Waterfront Shores) in relation to nine development blocks across Pier 8 (refer to Appendix “A” to PED24162 – Location Map).

This Report:

1. Recaps the land use planning framework shaping the Pier 8 development vision;
2. Provides background to the solicitation process that led to Waterfront Shores becoming the City’s development partner for Pier 8;
3. Summarizes the key goals and core elements of the Pier 8 Development Agreement relating to the sale of the City-owned lands to Waterfront Shores;
4. Highlights evolution of the planning context since the Pier 8 Development Agreement execution process commenced in November, 2021;
5. Detail progress made to date in executing the Development Agreement; and,
6. Outline next steps.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

1.0 Pier 8 Land Use Framework and Development Vision

The applicable land use planning framework includes approved Official Plan policies (West Harbour “Setting Sail” Secondary Plan), site-specific zoning with holding provisions, and a registered Plan of Subdivision. Together these planning instruments:

- Enable the former industrial lands on Pier 8 to transform into a mixed-use community consisting of approximately of 1,645 units;
- Permit a development form primarily consisting of buildings four to eight storeys in height across the Blocks, with the exception of a singular 45-storey tower permitted on Block 16;
- Permit approximately 6,500m² (70,000 sq. ft) of commercial space at-grade; and,
- Establish a pedestrian corridor referred to as the “Greenway” in between the nine development blocks across Pier 8, enabling underground parking beneath the Greenway.

Significant investment into public spaces and infrastructure has occurred surrounding the Pier 8 development blocks, enabling the public to enjoy the City’s waterfront asset and ‘readying’ the area for future private development.

2.0 Background: Waterfront Shores as the City’s Development Partner

To advance the development vision, in 2016, City Council directed staff to commence a solicitation process to identify a development partner to transform Pier 8 Blocks 1-8, and 16 into a new mixed-use community. The solicitation documents were evaluated using criteria related to environmental sustainability, housing affordability, design excellence and price. In 2018, Waterfront Shores was identified as the Preferred Proponent as the outcome of a solicitation process comprised of Request for Qualifications and Request for Proposal bid calls.

Upon award, the City and Waterfront Shores negotiated an agreement referred to as the “Pier 8 Development Agreement” (hereon referred to as Development Agreement). The Development Agreement established the roles and responsibilities and contractual relationship between the parties. The Development Agreement delineates a partnership, whereby the City is obligated to fulfil several ‘land-developer’ roles, and Waterfront Shores is obligated to fulfil several ‘builder’ roles.

3.0 Summary: Key Goals and Elements of the Pier 8 Development Agreement

In 2021, the City and Waterfront Shores executed the Development Agreement with a commencement date of November 1, 2021. The Development Agreement was based

on a “framework” approved by Council in 2019. The primary goal of the Development Agreement is to facilitate a transaction of City-owned land through a purchase and sale agreement between the City and Waterfront Shores. The specific development terms establish payment instalments a development schedule, milestone dates, and key deliverables such as proformas and appraisals. Together, these terms and conditions move the process towards the sale of the lands to Waterfront Shores.

The Development Agreement contains terms and conditions pertaining to:

- Dates and milestones of the development blocks;
- Financial payment structure, schedule and timing;
- Control and ownership rights to the lands;
- Relationship governance over the course of the relations between the parties;
- Defined obligations of both parties;
- Affordable Housing obligations of the development;
- Environmental and energy consumption obligations of the development;
- Indemnity and Insurance obligations; and,
- Contingency, default, termination, and alternative dispute resolution rights.

This transaction process outlined in the Development Agreement is based on balancing interests of both parties. A core interest of the City is to advance the development in accordance with the development vision so that the City receives financial benefit from the land sale in a timely manner, as well as to generate annual tax earnings. Whereas a core interest of Waterfront Shores is to advance the development when there is confidence that a minimum builder threshold profit can be met, based on development feasibility (e.g. factors such as projected sales revenue and construction costs).

Waterfront Shores is required to produce various deliverables at key points of the Development Agreement execution process. Deliverables include a development phasing plan (which Blocks will be developed and when), and a feasibility proforma prepared by a cost consultant that has been mutually selected by both parties. The Development Agreement is structured such that depending on the outcome of the feasibility proforma, Waterfront Shores has two options:

- 1) If feasible, initiate an appraisal process, and subject to achieving identified sales targets, the process would move towards an “Agreement of Purchase and Sale”

(APS). Subject to Waterfront Shores obtaining site plan approval, the City obtains payment at building permit stage of the development process; and,

- 2) If infeasible, the process pauses for a period of six (6) months, for a maximum of three (3) periods for a total of 18 months, at which time Waterfront Shores would have to choose to purchase the lands outright, or to forfeit development rights to the development Block(s). The premise of the pause is to permit a passage of time in which markets and/or construction costs adjust to produce a feasible proforma.

4.0 Evolving Planning Context

On May 24, 2017, Council approved Planning Committee Report 17-009 (Report PED17074), Applications to Amend City of Hamilton Zoning By-law No. 05-200, Approval of a Draft Plan of Subdivision and Temporary Use By-law for Lands Located at Pier 8, 65 Guise Street East. This approval was to incorporate the Pier 8 lands within Zoning By-law 05-200 and approve a Draft Plan of Subdivision in order to allow development of a mixed-use area consisting of commercial, residential, institutional and parkland uses. These applications were subsequently appealed to the Local Planning Appeal Tribunal, now known as the Ontario Land Tribunal.

On July 13, 2018, City Council approved Waterfront Shores as the Preferred Proponent to develop the Pier 8 lands, who were then granted full Party status through the appeal process. As a result, all parties achieved negotiated settlements which were subsequently released as formal Local Planning Appeal Tribunal Orders. The result, the planning instruments for both the Piers 6 and 7 and Pier 8 lands were approved, allowing for the development application processes to proceed for both the commercial village concept on Piers 6 and 7, as well as the residential/commercial/mixed-use development on Pier 8.

Since the Pier 8 Development Agreement commenced in November 2021, two changes to land use permissions occurred, as described below. Both these changes are factors to the Waterfront Shores development phasing plan.

Changes to Permit Parking Under Blocks 12, 13, and 14 – “The Greenway”

In April 2023, Council directed staff to commence a rezoning application to permit underground parking beneath Pier 8 Blocks 12-14 the lands referred to as the “Greenway”. The rezoning application was approved by Council in October 2023, thereby permitting underground parking, subject to a Strata Agreement between the City and Waterfront Shores. A benefit of permitting underground parking is an improved public realm (e.g. reduces area required for surface parking lots and site circulation).

Negotiations between the City and Waterfront Shores for the Strata Agreement are substantially underway. The Strata Agreement outlines requirements associated with the disposition of the below-grade portion of the Greenway, while retaining the at-grade portion in City's ownership for a pedestrian corridor across Pier 8. It also sets out the relationship between the at-grade and below-grade portions of the Greenway. Establishing the ability for Waterfront Shores to construct below-grade parking has clear implications to the design and layout of future development proposals and related site plan applications.

Changes to Permit 45-Storey Tower, Block 16

In November 2023, Council approved Official Plan Amendment and Zoning By-law Amendment for Block 16 to permit a maximum 45-storey mixed use building, subject to a Holding Provision. These applications were the outcome of a previous Minutes of Settlement Agreement between the City, Waterfront Shores and Harbour West Neighbours Inc. which required Council consideration of development applications of a mid or tall rise building, subject to an enhanced evaluation process. This application was appealed to the Ontario Land Tribunal, however, was subsequently withdrawn resulting in the amendments coming into effect on April 15, 2024.

5.0 Development Agreement Execution Progress and Current Status

As previously noted, the negotiation period concluded with the finalization of the Development Agreement on November 1, 2021. The City and Waterfront Shores have been fulfilling various obligations as part of executing the agreement as outlined below:

- December 10, 2019: Local Planning Appeal Tribunal (LPAT) Resolution Date which is defined as the date on which the LPAT Resolution was finalized.
- April 21, 2022: City facilitated requirements to obtain a Letter of Acknowledgement that a Record of Site Condition was issued by the Ministry of the Environment, Conservation and Parks.
- November 2, 2022: City facilitated registration of the Pier 8 Plan of Subdivision (referred to as M-Plan, 62M-1287).
- November 4, 2022: Waterfront Shores provided a Site Condition Waiver, an important milestone related to Record of Site Condition noted above.
- November 29, 2022: Waterfront Shores provided a Phasing Plan, commencing March 2023 with Blocks 3 and 6, and closing by May 2037 with Blocks 5 and 16.
- July 14, 2022: Waterfront Shores provided Upfront Payment of \$1.5 Million.

- November 7, 2023: Waterfront Shores provided second Upfront Payment of \$1 Million.
- December 22, 2023: Waterfront Shores provided a Revised Phasing Plan, commencing April 2024 with Blocks 3 and 6, and closing by June 2038 with Blocks 5 and 16.
- April 30, 2024, Waterfront Shores provided a Feasibility Proforma for Blocks 3 and 6, which determined that the builder threshold profit has not been met. As such, Waterfront Shores has invoked a six-month extension, as permitted, and contemplated in the Development Agreement.

7.0 Discovery Centre and Waterfront Shores Sales Presentation Centre

On February 9, 2022, Council approved Report PED21090(a) which authorized and directed staff to finalize a lease agreement with Waterfront Shores for a portion of the Discovery Centre, with the intent that it would be utilized as a sales presentation centre for the Pier 8 development. The lease was executed effective on October 11, 2022, and commenced March 1, 2023, following the permitted fixturing period after possession and being for a five-year term with a termination option exercisable by the City after three years into the term. The lease does not provide for any renewal/extension options beyond the five-year term that would be available to Waterfront Shores.

Concurrently to the lease negotiations, the process for the Official Plan Amendment and Zoning By-law Amendment for Block 16 to permit a maximum 45-storey mixed use building, was on-going. The result of this process would significantly impact the development plan and the subsequent marketing and sales plans. Therefore, Waterfront Shores informed the City of their intent to await the final planning approvals prior to launching their sales program, delaying the anticipated renovations of the interior space of the building. Upon the Council approvals in November 2023, Waterfront Shores began the feasibility proforma process, that would determine the development and financing costs, the sales pricing, and the timing of the development.

With the overall slowdown in new housing construction at a national, provincial, and local level, developers and builders have been looking at options including reducing the price of new units by lowering construction costs and/or changing the mix of units. This slowdown has had a negative impact on Waterfront Shores' feasibility proforma which has led to them to delay their sales and marketing program and set-up of the Pier 8 presentation centre.

Given the economic conditions and the limited number of years remaining on the short-term lease within the Discovery Centre, Waterfront Shores is reconsidering the location of their future presentation centre. Although the Discovery Centre was viewed as favourable initially, Waterfront Shores is looking to establish a longer-term location for

the presentation centre that can be utilized throughout the entire duration of the Pier 8 development, which runs counter to the City's long-term plans for the building. Given that Waterfront Shores has not sought to complete its fit-up of the leased premises, discussions are underway between City staff and Waterfront Shores towards an earlier termination of the Lease. Notwithstanding the changed circumstances, Waterfront Shores has been satisfying its financial obligations to the current short-term lease. As anticipated within the Development Agreement, they would look to enter into an agreement to locate their future purpose-built presentation centre on one of the development blocks on Pier 8, with the ability for it to remain in place until the final build-out of the site.

6.0 Next Steps

Preparation for the Next Feasibility Proforma Date and Development Process:

City staff and Waterfront Shores have continued dialogue to understand the findings of the feasibility proforma during this extension period. The current economic conditions of the housing market are exacerbating the outcome of the proforma analysis which has impacted the Pier 8 development, as well as other proposed developments within the Greater Golden Horseshoe Area and beyond. Notwithstanding the pause, Waterfront Shores remains committed to executing the Pier 8 development and the terms of the Development Agreement with the City.

Waterfront Shores submitted a second proforma on October 30, 2024, as per requirement of the Development Agreement. Staff are reviewing the details of this proforma and will provide further updates to Committee/Council during the Development Agreement execution process.

Waterfront Shores and City staff continue to meet regularly in preparation of the next stage of the development process, which will involve the Site Plan application, building permit, and construction processes.

Discovery Centre:

Staff will explore alternative interim uses for the Discovery Centre while the Hamilton Public Library progresses with the feasibility study for reuse of the building, with the objective of increasing animation to the site and obtaining financial revenue to offset building maintenance costs.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED24162 – Location Map