



City of Hamilton Report for Information

To: Chair and Members
Planning Committee

Date: February 25, 2025

Report No: PED25031

Subject/Title: Appeal of Zoning By-law Amendment Application
ZAC-24-020 to the Ontario Land Tribunal for Lack of
Decision for Lands Located at 1494 Upper
Wellington Street, Hamilton

Ward(s) Affected: Ward 8

Recommendations

- 1) That Report PED25031 respecting appeal of Zoning By-law Amendment Application ZAC-24-020 to the Ontario Land Tribunal for lack of decision, for lands located at 1494 Upper Wellington Street, Hamilton, **BE RECEIVED** for information.

Key Facts

- The appeal of the Zoning By-law Amendment application, filed by Municipal Law Chambers c/o Russell D. Cheeseman, counsel for Valery Homes (1991803 Ontario Inc.), was received by the City Clerk's Office on December 20, 2024, 189 days after the receipt of the initial application and 56 days after the October 25, 2024, resubmission.
- The original proposal consisted of two 20 storey multiple dwellings and two 12 storey buildings connected by a four storey podium with a total of 682 dwelling units, 896 vehicle parking spaces, and one loading space.
- The revised proposal consists of one ten storey multiple dwelling including a four storey podium and a second 12 storey multiple dwelling including a four storey podium, with a total of 641 residential units, 656 parking spaces, 230 bicycle parking spaces and two loading spaces.
- The Zoning By-law Amendment application proposes to change the zoning from "AA" Agricultural District to a site specific "DE-2" (Multiple Dwellings) District in Zoning By-law No. 6593.

- A Neighbourhood Information Meeting was hosted by the applicant on January 18, 2024. A second Neighbourhood Information meeting was hosted by the Ward 8 Councillor on February 9, 2024, and a joint Ward 7 and Ward 8 Councillor meeting was held on October 28, 2024, where members of the public were able to provide feedback and seek clarification regarding the proposal.

Financial Considerations

Not applicable.

Background

In accordance with Subsections 34(11.0.0.0.1) of the *Planning Act*, a Zoning By-law Amendment application may be appealed to the Ontario Land Tribunal after 90 days if Council has not made a decision on the application.

This Information Report has been prepared in accordance with Council's motion dated May 18, 2010, directing staff to advise the Planning Committee and City Council of appeals for non-decision to the Ontario Land Tribunal.

The subject lands are municipally known as 1494 Upper Wellington Street, Hamilton (refer to Appendix A attached to Report PED25031). The subject lands are approximately 2.40 hectares in area and are located at the southwest corner of the intersection of Upper Wellington Street and Stone Church Road East. The subject lands have frontage on two public streets and are currently vacant with a large stand of trees on the west side of the property. There is an existing sewer easement in favour of the City of Hamilton located along the rear property line.

The Zoning By-law Amendment application was submitted by MHBC Planning on behalf of Valery Homes (1991803 Ontario Inc.) on June 14, 2024, and deemed complete on June 25, 2024. Staff received a formal resubmission of the amended application on October 25, 2024.

The appeal of the Zoning By-law Amendment application, filed by Municipal Law Chambers c/o Russell D. Cheeseman, counsel for Valery Homes (1991803 Ontario Inc.), was received by the City Clerk's Office on December 20, 2024, 189 days after the receipt of the initial application and 56 days after the October 25, 2024, resubmission, included as Appendix B attached to Report PED25031.

Proposed Development

The initial proposal consisted of two 20 storey multiple dwellings and two 12 storey buildings connected by a four storey podium as shown on Appendix C to Report PED25031. The proposal included a total of 682 dwelling units and 896 vehicle parking

spaces with access from Stone Church Road East and Upper Wellington Street. The access along Upper Wellington Street was for 140 underground parking spaces and the remainder of the parking was proposed to be accessed from Stone Church Road East. The proposal included an outdoor courtyard at the primary building entrance fronting Stone Church Road East as well as outdoor amenity space on the rooftop of the fifth floor. The proposal retained a total of one tree on the subject lands.

The revised proposal received on October 25, 2024, consists of two multiple dwellings on the subject lands. Building A is a ten storey multiple dwelling which includes a four storey podium. Building B is a 12 storey multiple dwelling which includes a four storey podium as shown in Appendix D to Report PED25031. Both buildings stepdown to six storeys towards the existing single detached dwellings adjacent to the southern lot line. A total of 641 units are proposed consisting of 45% one bedroom units (289 units), 40% two bedroom units (256 units) and 15% three bedroom units (96 units). The proposal includes a total of 656 parking spaces which will be provided through podium parking, surface parking and underground parking. The proposed access along Upper Wellington Street would access approximately 126 underground parking spaces and all other parking spaces would be accessed from Stone Church Road East. Rooftop amenity space is proposed on the fifth and sixth floors of each multiple dwelling. Finally, the application proposes to retain a total of 81 trees on the west side of the subject lands.

Zoning By-law Amendment Application (ZAC-24-020)

The subject lands are currently designated “Neighbourhoods” on Schedule E-1 Urban Land Use Designations and identified as “Institutional” in the Ryckmans Neighbourhood Plan.

The subject lands are currently zoned “AA” Agricultural District in Zoning By-law No. 6593. The revised Zoning By-law Amendment application proposes to change the zoning to a site specific “DE-2” (Multiple Dwellings) District in Zoning By-law No. 6593. To facilitate the proposed development, as shown on the Concept Plan in Appendix D attached to Report PED25031, the applicant proposes the following modifications:

- To increase the maximum height from 26.0 metres to 42.0 metres;
- To reduce the minimum Front Yard Depth from 7.5 metres to 5.4 metres;
- To reduce the minimum Flankage Side Yard setback from 7.5 metres to 4.8 metres;
- To increase the maximum Floor Area Ratio from 0.9 to 3.54;
- To modify the minimum parking space size from 2.7 metres in width by 6.0 metres in length to 2.8 metres in width by 5.8 metres in length;
- To reduce the minimum required parking from 1.25 parking spaces per unit for residents and 0.25 visitor parking spaces per unit to 1.0 space per Class A

dwelling unit and a maximum combined resident and visitor parking rate of 1.2 spaces per Class A dwelling unit;

- To reduce the minimum loading space requirements from two spaces to one loading space;
- To reduce the minimum size of a required loading space with dimensions from 18 metres in length, 3.7 metres in width and 4.3 metres in height to 13 metres in length, 4.5 metres in width and a 3 metre minimum height; and,
- To add a regulation to allow the setback dimensions to be measured from the property line which existed on the date of the passing of the by-law.

Analysis

Issues identified as a result of the circulation and technical review for the revised proposal in Appendix D to Report PED25031 include, but are not limited to:

- There is a lack of sustainable design and green infrastructure for the proposed multiple dwellings;
- The applicant is required to address the findings of the Wind Study and the areas that were identified as uncomfortable on the site;
- The City has not received the Ministry of Citizenship and Multiculturalism acknowledgement letter regarding the Stage 4 Archaeological Assessment;
- As currently proposed, Stone Church Road East serves as access to the majority of the parking, whereas Transportation Planning requires the parking layout plan to rely on Upper Wellington Street as the main access;
- The applicant is required to confirm the proposed development complies with the airport zoning regulations through a legal land survey attesting clearance of the surfaces as specified in Transport Canada Advisory Circular 602-003;
- The applicant is required to confirm whether noise mitigation measures are required to be implemented in accordance with the City of Hamilton, Ministry of the Environment and Climate Change, and Transport Canada standards and guidelines as a result of the location of the site in relation to runway #24 approach surface;
- A revised Functional Servicing Report is required to include an updated sanitary sewer capacity analysis for pre-development and post-development flows to demonstrate the existing sanitary system has sufficient residual capacity to support the proposed development; and,
- Should it be determined that upgrades are required to the infrastructure to support the proposed development, an External Works Agreement will be required for the design and construction of any required improvements to the municipal infrastructure at the owner's cost.

Relationship to Council Strategic Priorities

- Priority 3: Responsiveness and Transparency
 - 1.2: Prioritize customer service and proactive communication.

Consultation

In accordance with the provisions of the *Planning Act* and the Council Approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation for the applications were sent to 175 property owners within 120 metres of the subject lands on July 3, 2024. A second notice was circulated on August 22, 2024, advising that the statutory public meeting date had been postponed and another notice would be sent once the statutory public meeting date was confirmed.

Pursuant to the City's Public Consultation Strategy Guidelines, the applicant held an Open House on January 18, 2024, and a summary of the meeting was provided as part of the submission of the complete application. The Ward 8 Councillor hosted a neighbourhood meeting on February 9, 2024, and the Ward 7 and Ward 8 Councillors hosted a joint meeting on October 25, 2024, to obtain feedback regarding the revised proposal.

To date, staff have received 82 submissions expressing concerns with the initial and revised proposal, including a petition. One comment was received in support of the revised proposal. Concerns identified by the public comments include:

- Compatibility issues with the surrounding area relating to height, size, setbacks, density, negative shadow impacts, negative wind impacts, increased noise pollution, increased light pollution and negative impacts on privacy;
- Concern with the design of the building including the amount of glare based on the proposed building material and impacts on the streetscape and public realm;
- Loss of existing vegetation and lack of greenspace on the site;
- Negative impacts to the municipal water, wastewater and stormwater infrastructure due to increased density;
- Negative impacts with regards to increased traffic and lack of parking on the site;
- Possible conflicts with John C. Munro International Airport;
- Lack of sustainability measures proposed on site and negative environmental impacts for the surrounding area;
- The amount of engagement that occurred with the Indigenous Community and the submitted Archaeological Assessment;
- Lack of transit options in the surrounding area; and,
- Negative impacts on the schools and medical care infrastructure in the neighbourhood.

Appendices and Schedules Attached

Appendix A: Location Map

Appendix B: Letter of Appeal

Appendix C: Original Concept Plans and Building Elevations

Appendix D: Revised Concept Plan and Elevations

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