

Staff Report 2020-0307

Meeting Date: September 22, 2020

Subject: Averica Land Development Services on behalf of 336 Kings Ridge Inc., 336 King Street East, Bolton, Ward 5

Submitted By: Stephanie McVittie, Acting Manager, Development Review Services, Community Services

RECOMMENDATION

That the Local Planning Appeal Tribunal (LPAT) be advised that Council opposes the development proposed by the Official Plan Amendment, Draft Plan of Subdivision and Zoning By-law Amendment submitted and appealed by 336 Kings Ridge Inc. as it does not meet the applicable provincial, regional and municipal policy framework or the Town's Engineering Standards;

That the Town of Caledon seek party status to the LPAT hearing;

That Staff be authorized to retain and instruct external counsel, consultants and peer reviewers, as necessary, to represent the Town's position before the LPAT regarding the proposed development.

REPORT HIGHLIGHTS

- On November 16, 2018, the Town of Caledon received Official Plan Amendment, Draft Plan of Subdivision, Zoning By-law Amendment and Draft Plan of Condominium applications from Averica Land Development Services on behalf of 336 Kings Ridge Inc. for the property municipally known as 336 King Street East. The applications were deemed complete on December 10, 2018.
- The proposed applications are required to permit 16 four-storey townhouse units that are 13.3 metres in height, accessed by a private common element road that has access to King Street East, and serviced by municipal water and wastewater services. The townhouses are divided into two blocks of 8 units.
- Town staff have several key issues with the proposed development, conformity to provincial, regional and local planning policies, standards and guidelines as well as the compatibility with the broader community of Bolton.
- At this time, staff cannot confirm that the proposed applications:
 - Are consistent with the Provincial Policy Statement, 2020
 - Conform to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020
 - Conform to the Region of Peel Official Plan
 - Conform to the Town of Caledon Official Plan
 - Meet the intent of Zoning By-law 2006-50

- Comply with other standards, policies and guidelines
- A Public Meeting was held on February 12, 2019. There were a number of residents who spoke and provided comments in respect to the applications.
- On January 14, 2020, the owner appealed the Official Plan Amendment, Draft Plan of Subdivision and Zoning By-law Amendment as a decision was not made within the prescribed timelines of the *Planning Act* (120 days). There have been no hearings scheduled yet for this case.
- Town staff is recommending that Council direct staff to seek party status at the Case Management Conference (once scheduled).
- To assist with the hearing due to current resource limitations and experience, Town staff is looking to retain consultants to work through any potential settlement discussions and appear as an expert witness at the LPAT:
 - A planning consultant
 - An urban design/architectural consultant
 - A noise consultant
 - A hydrogeological consultant
 - A transportation/traffic consultant

DISCUSSION

The purpose of this report is to seek Council direction regarding the position of the Town in respect of the appeal of the Official Plan Amendment, Draft Plan of Subdivision, Zoning By-law Amendment and the basis of that position.

Background

On November 16, 2018, the Town of Caledon received Official Plan Amendment, Draft Plan of Subdivision, Zoning By-law Amendment and Draft Plan of Condominium applications from Averica Land Development Services on behalf of 336 Kings Ridge Inc. for the property municipally known as 336 King Street East. The applications were deemed complete on December 10, 2018.

The subject lands are located at 336 King Street East in Bolton. The lands are approximately 0.63 ha (1.55 ac) in size and currently accommodate a single-detached residential dwelling that would be demolished to facilitate the proposed development. The surrounding land uses are rural residential to the north, east and west, and the Humber River Valley traverses the property to the south. The Region of Peel's water treatment facility, and some general industrial uses are located further west surrounding the intersection of King Street East and Old King Road. See **Schedule 'A'**, Location Map, attached.

Proposed Development

The proposed applications are required to permit 16 four-storey townhouse units that are 13.3 metres in height, accessed by a private common element road that has access to King Street East, and serviced by municipal water and wastewater services. The

townhouses are divided into two blocks of 8 units. See **Schedule “B”**, Proposed Draft Plan of Subdivision and Draft Plan of Condominium, attached to this report. More specifically:

- The Official Plan Amendment proposes to re-designate the lands from Low Density Residential to a site-specific High-Density Residential designation.
- The Zoning By-law Amendment proposes to rezone the lands from Rural Residential (RR) to Townhouse Residential – Exception XXX (RT-XX).
- The Draft Plan of Subdivision proposes to create one residential condominium block (2,501.7 m²), and two environmental blocks (3,575.80 m²).
- The Draft Plan of Condominium seeks to create a common element tenure for an internal private road and visitor parking.

A Site Plan application (SPA 18-88) has also been submitted to facilitate the development.

Consultation

Notice of Application

In accordance with the Planning Act, a Notice of Application was mailed to all landowners within 120 m (393.7 ft). In addition, the Notice was placed in the Caledon Enterprise and Caledon Citizen on December 20, 2018 and signage posted on the property.

Agency/Department Consultation

The applications were circulated to various external agencies and internal departments on December 11, 2018. See **Schedule ‘C’**, List of Application Materials for a list of all material submitted with the applications.

A number of agencies and departments provided comments in response to the first submission circulation. On April 18, 2018, the Town sent a Summary of Comments letter to the applicant identifying all comments, see **Schedule ‘D’**, Summary of Comments Letter.

Due to the magnitude of the comments and concerns raised, the review was more focused on the Official Plan Amendment. A revised submission was requested to address the comments; however, the applicant has not submitted one to date. All of these comments remain outstanding. There may also be further unidentified comments due to the changing nature of policies and standards and the time that has passed since the first submission. Finally, as the review continues for the applications, there will be further technical comments provided. For this reason, the comments identified in the Summary of Comments Letter cannot be considered to be all-encompassing.

Town staff have several key issues with the proposed development related to conformity with the Town’s Official Plan policies and the compatibility with the broader community of Bolton. The applicant must first address the comments on the Official Plan Amendment (OPA) to the satisfaction of the Town, Region of Peel and TRCA before staff considers the other planning applications. In summary, the key issues related to the OPA are:

- Delineation and protection of the EPA valley feature and buffer;
- Regional servicing capacity to support the development;
- Conformity with Town OP growth management, intensification and settlement policies;

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- Conformity with the Caledon Comprehensive Town-Wide Design Guidelines; and
- Compatibility of the proposed high density housing within an established low density residential area, versus within closer proximity to the commercial/downtown core of Bolton.

At this time, staff cannot confirm that the proposed applications:

- Are consistent with the Provincial Policy Statement, 2020
- Conform to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020
- Conform to the Region of Peel Official Plan
- Conform to the Town of Caledon Official Plan
- Meet the intent of Zoning By-law 2006-50
- Comply with other standards, policies and guidelines

Public Meeting

A Public Meeting was held on February 12, 2019. In accordance with the *Planning Act*, a Notice of Public Meeting was mailed to all landowners within 120 m (393.7 ft) of the subject lands and to members of the public who requested notification. In addition, the Notice of Public Meeting was placed in the Caledon Enterprise and Caledon Citizen on January 17, 2019 and posted on the Town's website.

There were a number of residents who spoke and provided comments in respect to the applications. Please see **Schedule 'E'**, Planning and Development Committee Report (Meeting Minutes) – February 13, 2019, attached. Town staff requested that the applicant provide a matrix identifying all public comments and responses to all comments; however, this has not yet been received.

Appeal to the Local Planning Appeal Tribunal (LPAT)

On January 14, 2020, the owner appealed the Official Plan Amendment, Draft Plan of Subdivision and Zoning By-law Amendment as a decision was not made within the prescribed timelines of the *Planning Act* (120 days).

There have been no hearings scheduled yet for this case; however, LPAT is holding Case Management Conferences and some hearings electronically and has recently begun scheduling these hearing dates.

Town staff is recommending that Council direct staff to seek party status at the Case Management Conference (once scheduled).

To assist with the hearing due to current resource limitations and experience, Town staff is looking to retain consultants to work through any potential settlement discussions and appear as an expert witness at the LPAT:

- a) A planning consultant
- b) An urban design/architectural consultant
- c) A noise consultant
- d) A hydrogeological consultant

- e) A transportation/traffic consultant

Staff are seeking Council direction at this time so that the Tribunal can be advised as to the position of the Town at the first Case Management Conference in the matter, whenever same is scheduled by the Tribunal. As set out in more detail below, at this time, there are still a number of unknowns regarding any potential hearing. Once the first Case Management Conference is held then staff will have more certainty and will report back at that time with an update and a budget request.

FINANCIAL IMPLICATIONS

At this preliminary stage of the proceedings there are a large number of unknown factors that can impact the cost and length of the hearing:

- whether there are multiple party requests;
- the length, scope and complexity of the Issues List;
- total number of witnesses to be called by all parties (this will determine the length of the hearing and be the key driver of costs);
- whether there are any contentious motions;
- whether the proposed development is revised;
- length of time dedicated to mediation / settlement discussions (generally the more productive the discussions the longer they will go)
- whether there are any facts or issues that can be agreed upon by the appellants and the other parties to narrow the scope of the hearing
- whether the appeal settles and the drafting of minutes of settlement becomes necessary

Should Council wish to proceed with the LPAT appeal outlined in this report, staff will proceed to contact potential external experts in support of Council's position and following the first Case Management Conference, will report back to Council with a detailed proposed budget and an update.

The property is assessed as Residential (\$1.06 million CVA). The Town's share of taxes levied, based on current value assessments is approximately \$5,800. As at September 8, 2020, the property tax account is determined to be current.

If the proposed development were to proceed as planned, the taxable assessment value of the property would change to reflect the developments that would have taken place.

The following Development Charges would apply:

Town of Caledon: \$23,840.98 per townhouse dwelling unit.

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Region of Peel: \$43,489.23 per townhouse dwelling unit, where the property has access to the Region's water and waste-water services. Effective February 1, 2016, the Region of Peel began collecting directly for most hard service development charges (i.e. water, wastewater and roads) for residential developments, at the time of subdivision agreement execution.

Go-transit: \$581.30 per townhouse dwelling unit.

School Boards: \$4,572 per any residential unit.

The Development Charges comments and estimates above are as at September 8, 2020 and are based upon information provided to the Town by the applicant, current By-laws in effect and current rates, which are indexed twice a year. Development Charges are calculated and payable at the time of building permit issuance. Development Charge By-laws and rates are subject to change. Further, proposed developments may change from the current proposal to the building permit stage. Any estimates provided will be updated based on the Development Charges By-law and rates in effect at the time of building permit, and actual information related to the construction as provided in the building permit application.

COUNCIL WORK PLAN

Connected Community: Preserve heritage and natural areas

ATTACHMENTS

Schedule A: Location Map

Schedule B: Proposed Draft Plan of Subdivision and Draft Plan of Condominium

Schedule C: List of Application Materials

Schedule D: Summary of Comments Letter

Schedule E: Planning and Development Committee Report (Meeting Minutes) – February 13, 2019