

Memorandum

Date: April 25, 2023

To: Members of Council

From: Stephanie McVittie, Manager, Development, Planning Department

Subject: Update on the Ontario Land Tribunal Hearing for 0 and 18314 Hurontario Street, Ward 1

The purpose of this memorandum is to provide an update on the status of the development being proposed as part of the OLT appeals under OLT-21-001392 regarding the redevelopment of 0 and 18314 Hurontario Street, Caledon Village, Ward 1.

Background

The Town of Caledon received Zoning By-law Amendment, Draft Plan of Condominium, and Site Plan applications from Design Plan Services Inc. on behalf of Jannett and Richard Nicholson and 2683894 Ontario Inc. (the “Applicants” or “Appellants”) for the property municipally known as 0 and 18314 Hurontario Street On January 6, 2021. The Zoning By-law Amendment application (RZ 2021-0001) was deemed complete on February 23, 2021. The Site Plan application (SPA 2021-0001) was deemed incomplete on February 23, 2021. The Draft Plan of Condominium application (21CDM-21001C) was later deemed complete on March 3, 2021.

The subject lands are located south of Charleston Sideroad on the west side of Hurontario Street at 0 and 18314 Hurontario Street in Caledon Village (Ward 1) (“Subject Lands” or “Subject Site”). The Subject Lands are approximately 1.38 hectares (3.41 acres) in size and are currently developed with one single detached dwelling, which is proposed to be retained. The surrounding land uses are rural residential, commercial and institutional to the north, south, east and west. To the south-west there is also an existing aggregate extraction operation. Attached at Schedule ‘A’ is a location map of the Subject Lands.

Proposed Development – Original Submission

The initial application proposed the development of 30 one and a half and two-story townhouse units linked by a private condominium road that would connect to James Street from the municipal owned lands between 31 and 37 James Street East. The development would be serviced with municipal water and an on-site communal sewage disposal system. The townhouses were divided into seven blocks ranging in size from three to six units. The Applicants proposed to retain and conserve the existing heritage house on the Subject Lands in place as it is designated under Part IV of the *Ontario Heritage Act*.

For further details on the original proposal, please see Schedule ‘B’, Staff Report 2021-0406, attached.

Processing of the Applications

Once received, the applications were processed by the Town, including issuing a Notice of Application, hosting of a Residents’ Meeting, and circulating the applications to various agencies and departments.

Comments from the residents largely mirrored those provided by staff and agencies and included concerns relating to:

- Access, traffic and parking
- Servicing, grading and drainage
- Community character, architecture, housing form and density
- Heritage

- Amenities

Several agencies and departments provided comments in response to the circulation. On June 30, 2021, the Town sent the applicant a Summary of Comments letter identifying all comments. In summary, among the numerous comments provided, the key issues related to the Zoning By-law Amendment were:

- The proposed access from Brock Street road allowance is not appropriate.
- The Ministry of Transportation indicated that access to Hurontario Street is not supported based on the current proposal.
- Further analysis relating to servicing is required through updates to the Functional Servicing and Preliminary Stormwater Management Report to support the proposed scale of development on the subject lands. Additionally, following the Town providing the Comment Summary Letter to the applicant, the Region has provided further comment indicating that there is significant concern with the proposed communal sewage treatment system.
- The significance of the heritage buildings and heritage resources on and surrounding the subject property should be properly discussed and referenced throughout the supporting documents, including the Heritage Impact Assessment.
- Consider whether an alternative housing type would be more appropriate for the subject lands and surrounding area.
- Amendments are required to various materials to address comments in the Summary of Comments Letter.

As such, Staff was not satisfied with the proposed applications and asked for revised submissions to address the outstanding comments. No submission was provided before September 8, 2021 when the Applicants appealed to the Ontario Land Tribunal (OLT).

For further details, please see Schedule 'B', Staff Report 2021-0406, attached.

Appeal to Ontario Land Tribunal

The Applicants appealed the Zoning By-law Amendment, Draft Plan of Subdivision and Site Plan applications to the OLT On September 8, 2021, as a decision was not made within the prescribed timelines of the *Planning Act* (90 days, 120 days, and 30 days respectively). The OLT set the matter for a 15-day hearing commencing on April 3, 2023.

On December 14, 2021, through Staff Report 2021-0406, attached as Schedule 'B', Council directed staff to seek party status. The Region of Peel was also granted party status. A number of other residents were granted participant status.

Based on the identified issues, witnesses in the area of planning, engineering, transportation, heritage and urban design, landscape architecture and noise were retained for the OLT hearing, which included a requirement for these experts to engage in without prejudice expert's meetings.

Revised Proposal Received

On or about March 6, 2023, the Applicants provided a with prejudice concept plan, without additional studies or reports, that conceptually showed a revised development that, among other things:

- a) Reduced the number of one and a half and two story condominium townhouses units from 30 to 27;
- b) Eliminated the previous communal septic system and replaced it with individual septic systems for each of the seven townhouse blocks;
- c) Moved the potential access point from Brock Street road allowance to Elizabeth Street and Hurontario Street (Highway 10);
- d) Provided an approximate 5.91 metre (19.4 feet) Ministry of Transportation (MTO) setback from Hurontario Street (Highway 10); and,

e) Retained the heritage building on the subject lands.

As the revised plan addressed the Region's issue regarding communal servicing by replacing same with individual septic systems, the Region removed themselves as party to the hearing.

Following the exchange of expert witness statements, the experts and the parties engaged in further without prejudice discussion that eliminated areas of dispute between the experts and turned to the discussion from when certain matters needed to be addressed as opposed to if the matter needed to be addressed at all. The result of these discussions led the Applicant to submit a confidential and without prejudice offer to the town.

As a result of the narrowing of the issues and the confidential and without prejudice offer from the Applicant, the OLT has adjourned the OLT hearing until April 26, 2023.

Final Revised Proposal

The proposed Zoning By-law Amendment, Draft Plan of Condominiums and Site Plan are attached as Schedules 'C', 'D' and 'E', respectively.

In the Final Revised Proposal, the Applicant is proposing that each block of townhouses is a separate standard condominium, with a septic system servicing that block of townhouses within that specific condominium. Shared facilities such as the road, lot, and stormwater management facility were to be shared by easements and potentially a shared facilities agreement.

Based on the expert evidence that has been filed with the OLT, there are limited areas that remain in dispute between the experts being called by the Appellant and the Town. The Region's issues are resolved as the Appellant is no longer proposing a communal sanitary servicing system.

Below is a summary of the Staff and expert opinions on the Final Revised Proposal and the outstanding areas that remain in dispute between the experts:

Servicing (Water, Septic and Stormwater)

The Appellant is proposing to service the development with municipal water. The Region has confirmed that there is capacity and servicing available.

As mentioned above, with the change in form of development, the Appellant is proposing to service each standard condominium (row of townhouses) with a septic system. This is no longer considered a communal system and would be reviewed under the Ontario Code at the time of building permit. At this time, the Town's CBO has not raised issues with the feasibility of the proposed septic system. A further review of the septic system will be done at the detailed design stage and is to be included as a condition of the Site Plan agreement and Draft Plan of Condominium approval, and prior to building permit issuance.

Grading and Drainage

The development proposes to maintain existing drainage pattern and will provide quantity control to pre-development levels and quality controls will meet enhance protections. Approval from the Ministry of Transportation will be required for any stormwater discharging to Hurontario Street right of way.

As for grading, the Applicant has proposed elevating subject lands to ensure positive drainage towards Hurontario Street so emergency flows do not negatively impact adjacent landowners. The Applicant also proposes using retaining walls ranging in height to approximately 3.4 metres (11.2 feet) – above the Town standard of 2.5 metres (8.2 feet) – to maintain proper water flow and negate any risk to neighbouring properties. However, the Town still requires additional topographic and design information to determine how existing drainage that enters the development site will go to an appropriate outlet, which may require MTO

approval. These details would be addressed through conditions of the Site Plan agreement and Draft Plan of Condominium approval, and prior to building permit issuance.

Transportation (Access/Parking)

The site access remains unresolved, so the Town is requesting that a Holding (“H”) Condition be imposed on the zoning of the lands until the provision of site to the satisfaction of the Town, including the agreement on the cost of the access with the applicant pay for those costs, has been provided.

The recent submission identifies temporary access to Hurontario Street and ultimate access via an unopened road allowance to James Street. The Ministry of Transportation (MTO) does not support access to Hurontario Street and has discussed with the Town about utilizing unopened road allowances to facilitate access to municipal roads. The feasibility of access through the unopened road allowance on James Street and the ultimate design of the road has yet to be determined as the Applicant has not applied to purchase the road allowance or provided any proposed designs. The Town has a 525 mm storm sewer within the unopened James Street road allowance. Any road connection over the storm sewer will make access and maintenance more difficult and costly.

The Town’s external transportation expert is generally satisfied with the Final Revised Proposal from a transportation and parking perspective. However, his evidence agrees with the Town’s position that approval of the Zoning By-law must be subject to an “H” until feasible access to the Subject Site is found. The Town’s expert is concerned that the Final Revised Proposal does not provide an appropriate internal walkway. He also has some minor concerns regarding the shape of certain visitor parking spots.

Urban Design

The Town’s external urban design expert is generally satisfied with the Final Revised Proposal from an urban design perspective. However, his evidence is that: (a) the Final Revised Proposal does not provide an appropriate internal walkway; and (b) that the fenestration of certain facades of the proposed townhouses needs to be shown prior to Site Plan approval in a form satisfactory to the Town.

Landscape

The Town’s external landscape architect is satisfied in principle with the landscape plan that has been submitted by the Appellant through its witness statements. However, the Town’s expert requires further details related to this landscape plan, including coordination of the landscaping plan (and location of street trees that are above servicing easements) with other utilities. This needs to be shown prior to Site Plan approval in a form satisfactory to the Town.

Noise

The Town’s noise expert is generally satisfied that the Final Revised Proposal is feasible from a noise perspective. However, (a) prior to final Site Plan approval the noise study needs to be updated to address several technical matters; and (b) that an analysis of noise impacts from the nearby Caledon Fairgrounds should be undertaken and that at a minimum a warning clause regarding noise emanating from it should be imposed on the Final Revised Proposal.

Heritage

The Town’s external heritage expert has no concern with preservation of the heritage building on the Subject Site. The Heritage Impact Assessment is required to be updated to address the stone wall on the Subject Site and whether it has any heritage value. Should it have heritage value, revisions to the Final Revised Proposal might be necessary. In addition, the Town requires archaeological clearance from the Ministry of Citizenship and Multiculturalism. These items can be addressed through a condition of the “H” symbol.

Planning/Form of Development

The Town's external land use planner has not identified any land use planning issues with the form of the Final Revised Proposal or in principle the density of it provided that:

1. The Zoning By-law be subject to a Holding "H" symbol with the following conditions:
 - a) Provision of site access to the satisfaction of the Town, including agreement on the cost of the access with the applicant pay for those costs;
 - b) Receipt of archaeological clearance from the Ministry of Citizenship and Multiculturalism; and,
 - c) Submission of an Addendum to the Heritage Impact Assessment to the satisfaction of the Town.
2. The Town's evidence is also that the Zoning By-law needs some technical refinement to ensure the correct regulations are being captured so that the Final Revised Proposed is permitted and not something more.
3. The Draft Plan of Condominiums be revised to reflect a common element condominium for at least the private road, visitor parking spaces, common amenity area and the stormwater management facility. The Draft Plan of Condominium conditions should include several matters that need to be tied up prior to final condominium approval.
4. The Site Plan application only be approved in principle, and that this application would need to be revised to address several technical issues, including: (a) the provision of an appropriate internal sidewalk with connection to Hurontario Street, (b) the provision of a 6.0 metre (19.7 feet) MTO setback from Hurontario Street; (c) refinement to the design of certain visitor parking spots; (d) coordination of the landscaping plan (and location of street trees) with other utilities; (e) the provision of a revised grading plan; (f) updated architectural plans that demonstrate appropriate fenestration of the building facades from a urban design perspective; and (g) the provision of a Site Plan agreement.
5. The OLT's order be withheld on the various planning instruments until these are in a form satisfactory to the Town.

Next Steps

The Town, and its experts, will attend the Ontario Land Tribunal Hearing on April 26, 2023 to provide evidence on any outstanding areas of dispute.

The Town will then monitor for the decision of the Ontario Land Tribunal. Once the decision is received, staff will update Council and interested parties and the decision will be posted on the application page of the Town's website.

Should the Tribunal approve a Zoning By-law with a Holding ("H") symbol as contemplated above, construction cannot begin until such time that the conditions of the H symbol have been satisfied and the H symbol lifted by By-law or Order.