



SUBJECT: 374 & 380 Martha Street Development Applications

TO: Development and Infrastructure Committee

FROM: Planning and Building Department

Report Number: PB-69-16

Wards Affected: 2

File Numbers: 505-02/14 & 520-07/14

Date to Committee: October 12, 2016

Date to Council: TBD

Recommendation:

Endorse the staff recommendation to oppose amendments to the Official Plan and Zoning By-law that would be required to permit the revised development proposal as outlined in this report for 374 and 380 Martha Street; and

Direct staff to confirm Council's opposition to the revised development proposal at the Ontario Municipal Board hearing in this matter.

Purpose:

Address other area of responsibility.

Background and Discussion:

In September 2014, Walker Nott Dragicevic Ltd. (WND), on behalf of ADI Development Group Inc. (ADI), submitted applications for an Official Plan amendment and Zoning By-law amendment to permit a proposed 28-storey, 226-unit mixed use tower at 374 Martha Street.

On March 26, 2015, ADI appealed the application to the Ontario Municipal Board because Council had not made a decision on their application within 180 days of the date the application was submitted.

On March 30, 2015, staff brought forward report PB-23-15 which recommended refusal of the Official Plan and Zoning By-law amendments for the proposed development. At that meeting, Council passed the following resolution:



ENDORSE THE STAFF RECOMMENDATION TO REFUSE THE OFFICIAL PLAN AND ZONING BY-LAW AMENDMENTS FOR 374 MARTHA STREET

Endorse the staff recommendation to refuse the applications for Official Plan and Zoning By-law amendments, submitted by Andrew Ferancik, Walker Nott Dragicevic Ltd., 90 Eglinton Avenue East, Toronto, ON, on behalf of ADI Development Group Inc., to permit a mixed use development consisting of 226 residential apartment units and 348 m² of ground floor commercial development, on the property located at 374 Martha Street; and

Direct the City Solicitor to provide a confidential legal strategy report to the May 11, 2015 Development & Infrastructure Committee meeting in response to the Ontario Municipal Board appeals filed by ADI Development Group Inc. (PB-23-15).

In October 2015, WND, on behalf of ADI, provided the City with a revised development proposal along with revised plans and studies.

The revisions to the proposal include:

- The elimination of the above and below grade encroachments on to City property;
- A reduction in height from 28 storeys to 26 storeys (8 storeys is the maximum permitted in the Official Plan);
- A reduction in the unit count from 226 residential units to 192 residential units;
- A reduction in the number of underground parking levels from 5 levels to 4 levels;
- A reduction in the Floor Area Ratio (FAR) from 12.5:1 to 11.1:1 (FAR of 4.0:1 is the maximum permitted in the Official Plan and Zoning By-law); and
- A reduction in the number of vehicle parking spaces from 218 to 196 (240 spaces are required by the Zoning By-law).

The consultants retained by ADI Development Group confirmed in the expert witness statements filed on December 21, 2015 that the applicant would be proceeding with the revised proposal at the Ontario Municipal Board hearing that was scheduled for March 2016.

On March 14, 2016, the Ontario Municipal Board hearing commenced at which time legal counsel for the ADI Development Group requested an adjournment to the hearing in order to prepare a revised proposal to include the recent acquisition of an adjacent property, 380 Martha Street.



The Ontario Municipal Board granted the request for adjournment and issued a procedural order which included the following timeline:

- The applicant was to provide the City with a revised proposal by June 30, 2016;
- The City is to hold a non-statutory public meeting on the revised applications by mid-October 2016;
- Subsequent dates in late 2016 and early 2017 were provided for a pre-hearing, witness statements and visual evidence; and
- The Ontario Municipal Board hearing was rescheduled to commence on February 21, 2017.

Pursuant to the procedural order, representatives for ADI submitted their revised proposal to the City on June 30, 2016 and the application was circulated to the public and agencies shortly thereafter.

June 2016 Development Proposal

On June 30, 2016, WND, on behalf of ADI, provided the City with a revised development proposal along with revised plans and studies.

The revisions to the proposal include:

- An increase in the area of the development site from 1,359 m² to 1,701 m²
- An increase in the unit count from 192 residential units to 240 residential units
- An increase in Floor Area Ratio (FAR) from 11.1 to 11.26
- The elimination of above ground parking in favour of residential units
- An increase in underground parking from 4 levels to 6 levels
- An increase in indoor amenity area of 435 m² from 428 m² and an increase in outdoor amenity area of 693 m² from 493 m²
- An increase in vehicle parking spaces to 241 spaces from 196 (300 spaces are required by the Zoning By-law); and
- An increase in ground floor retail space to 423.2 m² from 327 m².

Technical Review

The revised proposal was circulated to internal departments and external agencies for comment in July 2016. Staff have reviewed the comments received to date and considered them in the staff recommendation.



Staff Analysis and Recommendation

The Ontario Planning Act contemplates that proposals for development may change as part of an Ontario Municipal Board hearing process. The Act allows the Ontario Municipal Board to consider whether a further recommendation from the municipal council would be appropriate.

In light of the procedural order issued by the Ontario Municipal Board, staff are bringing forward this recommendation in advance of the hearing to update Council on the changes to the proposal, to confirm the staff position has not changed with the most recent proposal, and to work in the spirit of advancing the hearing with a resolution from Council regarding the most recent proposal.

Planning staff have reviewed the revised proposal and do not support the proposal nor the Official Plan and Zoning By-law amendments that would be required to facilitate the revised proposal.

Provincial Policy Statement

The Provincial Policy Statement (PPS) states that, “the [Official Plan] is the most important vehicle for implementation of [the] Provincial Policy Statement [and] comprehensive, integrated and long-term planning is best achieved through official plans” (PPS, Policy 4.7) Part III of the PPS recognizes that local context is important and not all policies will be applicable to every site, feature or area. The PPS is clear that the objectives of its policies should be given contextual consideration and not be interpreted as an unrestricted or unconditional permission to apply PPS policies to specific sites and development proposals. The PPS refers the reader to local Official Plans which are the vehicles to best achieve comprehensive, integrated and long-term planning and are suited to provide reasonable and attainable policies to protect provincial interests, such as the intensification strategy embedded in the City of Burlington’s Official Plan.

The Official Plan provides the overarching policy framework, evaluation criteria for intensification proposals and development standards in the City of Burlington. The revised proposal and the site-specific amendments required to facilitate the proposed development represent overdevelopment of the property.

Places to Grow

The revised proposal generally conforms to the principles of the Growth Plan by proposing to accommodate intensification in an area that is designated for intensification and, more specifically, within the Urban Growth Centre. However, the revised proposal does not achieve an appropriate scale of development nor transition of



built form to adjacent areas. The City's intensification strategy is well positioned to meet the minimum density target established in the Growth Plan without significant changes to the existing Official Plan policies and permissions.

Regional Official Plan

While Region staff generally has no objection to the revised proposal on the basis that it conforms to the Region's growth policies, City staff is evaluating the revised proposal on the basis of land use compatibility. The revised proposal continues to represent the overintensification of a small site and does not provide an urban form that is complementary to existing developed areas.

Urban Growth Centre Targets

Based on the development patterns that have taken place in the Urban Growth Centre in the past ten years, City staff is of the opinion that the Burlington is well positioned to achieve a total of 200 residents and jobs per hectare by 2031 taking into consideration the existing Official Plan permissions and zoning regulations within the Downtown.

Burlington Official Plan

Part III, Section 5.4.2 k) states that "proposals for residential intensification shall be evaluated on the basis of the objectives and policies of Part III, Section 2.5" which include 13 criteria that are intended to evaluate and protect against the impacts of intensification proposals within or adjacent to established neighbourhoods. The revised proposal fails to satisfy a number of the intensification criteria and is not compatible with the existing neighbourhood character.

The height and density of the revised proposal are not appropriate for the site and do not fit with the existing and planned context for this area. The height and density of the revised proposal remain significantly greater than what is permitted in the City's Official Plan policies for the Downtown Core Precinct and they are also greater than any existing or planned buildings within the vicinity. The revised proposal is not compatible with the existing neighbourhood character and continues to represent the overdevelopment of a small site.

The proposed development fails to satisfy the residential intensification policies of the Official Plan and does not represent good planning.

Staff Recommendation

The revised proposal does not achieve compatible intensification, represents overdevelopment of the site and does not represent good planning.



Financial Matters:

Not applicable.

Public Engagement Matters:

The revised proposal was subject to the standard circulation requirements and a public notice and request for comments were circulated in July 2016 to all owners/tenants within 120 m of the subject property as well as to those who had previously participated in the public process.

Between July and September 2016, staff received 40 emails, 22 letters and 1 phone call (63 total). These letters and emails are included in Appendix A of PB-69-16.

The general themes of these comments are:

- General opposition to the proposed development
- Concern about the significant increase in density from the permissions set out in the Zoning By-law and Official Plan
- Concern about the proposed number of units / density
 - Poor location for additional density
 - Proposed development constitutes over-intensification
- Concern about building height
 - Building height is not compatible with adjacent buildings and land uses
 - Proposed building height will cast significant shadows on adjacent properties
- Concern about the development industry establishing heights/densities rather than the Official Plan
- Traffic and safety
 - Increased traffic volumes
 - Turning movements
 - Location and interaction of driveways on Martha Street
 - Ambulance access
 - Pedestrian safety
- Concern that this application will be precedent setting
- Inadequate parking spaces to accommodate residents and visitors
- Concern about length of construction period
 - Concern about construction period overlapping with Bridgewater construction



- Urban design / streetscape impacts
 - Concerns about impacts on views of the waterfront
 - Concerns about architectural quality
 - Privacy concerns
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Conclusion:

The changes that have been made in the revised proposal do not resolve or address all of the concerns raised by Planning staff in PB-23-15. Staff recommends that the Official Plan and Zoning By-law amendments required to facilitate the revised proposal be opposed at the Ontario Municipal Board.

Respectfully submitted,

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Appendices:

- a. Public Comments

Note: Appendix A is available online at www.burlington.ca/calendar

Notifications:

Report Approval:

All reports are reviewed and/or approved by Department Director, Director of Finance and Director of Legal. Final approval is by the City Manager.