



SUBJECT: Statutory public meeting and information report for a proposed zoning by-law amendment on 4063 Upper Middle Road.

TO: Planning and Development Committee

FROM: Planning and Building Department

Report Number: PB-41-17

Wards Affected: 6

File Numbers: 520-03/17

Date to Committee: November 6, 2017

Date to Council: November 13, 2017

Recommendation:

Receive and file planning and building department report PB-41-17 regarding the proposed zoning by-law amendment for 4063 Upper Middle Road.

Purpose:

The purpose of this report is to provide an overview of the proposed application, an outline of applicable policies and regulations and a summary of technical and public comments received to date. This report is intended as background information for the statutory public meeting.

The report relates to the following objectives of the City of Burlington Strategic Plan.

A City that Grows: Our Future by 2040

- Intensification
 - Growth is being achieved in mixed-use areas and along main roads with transit service, including mobility hubs, downtown and uptown.
 - New and transitioning neighbourhoods are being designed to promote easy access to amenities, services, recreation and employment areas with more opportunities for walking, cycling and using public transit.
 - Older neighbourhoods are important to the character of Burlington and intensification will be carefully managed to respect this character.

REPORT FACT SHEET

RECOMMENDATION:		<i>None. Statutory Public Meeting</i>	Ward No.:	6
Application Details	APPLICANT/OWNER:	<i>think Giraffe Design on behalf of David Eccles</i>		
	FILE NUMBER:	<i>520-03/17</i>		
	TYPE OF APPLICATION:	<i>Zoning By-law Amendment</i>		
	PROPOSED USE:	<i>Application to amend the Zoning By-law to permit the development of a seven (7) storey apartment building with 32 units at 4063 Upper Middle Road.</i>		
Property Details	PROPERTY LOCATION:	<i>North side of Upper Middle Road, just east of Walker's Line, adjacent to Shoreacres Creek</i>		
	MUNICIPAL ADDRESS:	<i>4063 Upper Middle Road</i>		
	PROPERTY AREA:	<i>0.55 hectares (1.4 acres)</i>		
	EXISTING USE:	<i>Vacant land</i>		
Documents	OFFICIAL PLAN Existing:	<i>Residential-High Density and Watercourse</i>		
	OFFICIAL PLAN Proposed:	<i>Same</i>		
	ZONING Existing:	<i>Development (D)</i>		
	ZONING Proposed:	<i>Residential-High Density (RH5) zone and the Open Space (O2 zone).</i>		
Processing Details	NEIGHBOURHOOD MEETING:	<i>Monday June 19/17, from 6:30pm to 9pm, Tansley Woods Community Centre, Community Room 1</i>		
	PUBLIC COMMENTS:	<i>To date, Staff have received fifteen emails, four letters and five phone calls.</i>		

Background:

On May 2, 2017 the Planning and Building Department acknowledged that a complete application had been received for a Zoning By-law Amendment for 4063 Upper Middle Road, to permit the development of a seven (7) storey apartment building with 32 units at 4063 Upper Middle Road, as illustrated on the sketch in Appendix I.

Site Description

This application applies to the property known municipally as 4063 Upper Middle Road and is adjacent to open space associated with the Shoreacres Creek valley. This property was previously occupied by a single detached dwelling which was demolished in 2014. This site would be accessed off of Upper Middle Road. The property is currently vacant of any buildings or structures. The site is 0.55 hectares (1.4 acres) in size and has a frontage of 76.5 metres (250 feet) on Upper Middle Road and a depth of approximately 63.4 metres (208 feet).

Surrounding land uses include:

- North of the site is Shoreacres Creek valley with townhouses further to the north;
- East of the site is open space associated with the Shoreacres Creek valley;
- South of the site is Upper Middle Road and vacant land slated for the Park City development (consisting of Phase 1- a 5 storey building with 209 residential units with groundfloor commercial and Phase 2 – a 4 storey building with 91 units; and
- West of the site are townhouses and a convenience commercial plaza located at the northeast corner of Upper Middle Road and Walker's Line.

Discussion:

Description of Application

The applicants seek to amend the Zoning By-law to permit the development of a seven (7) storey apartment building with 32 units at 4063 Upper Middle Road. The proposed apartment building will have a height of 25.8 metres and will have a total Gross Floor Area of 7,196 square metres (77,457 square feet).

In accordance with Official Plan policy, the portion of the property containing open space associated with the Shoreacres Creek will be rezoned to an appropriate Open Space zone and conveyed to the City free of charge.

Diagram 1



The subject property is located near the northeast corner of Upper Middle Road and Walker's Line. The property once contained a single detached dwelling but is currently vacant.

Technical Reports

The applicant submitted the following technical reports in support of the subject applications:

- [Application Project Summary](#) (Prepared by thinkGiraffe, 2017)
- [Planning Justification Report](#) (Prepared by Corbett Land Strategies, March 2017)
- [Conceptual Site Plan](#) (Prepared by thinkGiraffe, March 2017)
- [Site Servicing Plan \(2013\)](#) (Prepared by Ashenhurst Nouwens Ltd, January 2013) and [Site Servicing Plan \(2017\)](#) (Prepared by S. Llewellyn & Associates Limited, January 2017)
- [Grading and Erosion Control Plan](#) (Prepared by S. Llewellyn & Associates Limited, January 2017)

- [Environmental Impact Study](#) (Prepared by Premier Environmental Services Inc., September 2016)
- [Functional Servicing Report and Stormwater Management Plan](#) (Prepared by S. Llewellyn & Associates Limited, January 2017)
- [Geotechnical Report](#) (Prepared by Soil-Mat Engineers & Consultants Ltd.)
- [Environmental Noise Impact Study](#) (Prepared by dBA Acoustical Consultants Inc., February 2017)
- [Sun Shadowing Study](#) (Prepared by KME Geospatial Consulting, February 2017)
- [Traffic Impact Study](#) Prepared by Paradigm Transportation Solutions Ltd., December 2016)

Policy Framework

The proposed Zoning By-law amendment application is subject to the following policy framework: the Provincial Policy Statement (PPS), 2014; Places to Grow, Growth Plan for the Greater Golden Horseshoe, 2017; Halton Region Official Plan; City of Burlington Official Plan, and the City of Burlington Zoning By-law 2020.

Provincial Policy Statement (PPS) 2014

The Provincial Policy Statement provides policy direction on matters of provincial interest related to land use planning and development. It sets the policy foundation for regulating the development and use of land. The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. The PPS supports improved land use planning and management, which contributes to a more effective and efficient land use planning system. The PPS focuses growth and development within settlement areas while encouraging the wise management and efficient land use and development patterns.

Decisions affecting planning matters made on or after April 30, 2014 “*shall be consistent with*” the PPS.

Growth Plan for the Greater Golden Horseshoe (2017)

The Growth Plan for the Greater Golden Horseshoe came into effect on July 1, 2017 and provides a growth management policy direction for the defined growth plan area. The Growth Plan provides a framework for implementing the Province’s vision for building stronger, prosperous communities by better managing growth. The Growth Plan intends to build towards the achievement of complete communities that are compact, transit-supportive and make effective use of investments in infrastructure and public service facilities. The Plan focuses on building complete communities that are well-designed, offer transportation choices, accommodate people at all stages of life

and have the right mix of housing, a good range of jobs and easy access to stores and services to meet daily needs.

Halton Region Official Plan

The subject lands are designated as “Urban Areas”. Urban Areas are locations where urban services (water and waste water) are or will be made available to accommodate existing and future development. The Urban Area designation is intended to accommodate concentrations of existing and future development (Section 51(1)) and to “establish a rate and phasing of growth that ensures the logical and orderly progression of development, supports sustainable and cost effective growth, encourages complete communities, and is consistent with the policies of this Plan” (Section 72(5)).

The Regional Official Plan states that permitted uses shall be in accordance with local Official Plans and Zoning By-laws and other policies of the Regional Official Plan.

City of Burlington Official Plan

The subject lands are designated as “Residential Areas” in the City’s Settlement Pattern: Schedule “A”. The permitted uses in the Residential Areas designation include a broad range of housing types, ranging from single detached homes to high rise apartments. The subject lands are designated as “Residential – High Density” and “Watercourse” on Schedule B of the City’s Official Plan. In the Residential High Density designation a variety of residential building forms, including street townhouses and stacked townhouses, back to back townhouses, attached housing and apartment buildings *shall* be permitted. The permitted density in this designation is between 51 and 185 units per hectare, with some flexibility to the density requirements of the Official Plan. The net density of the proposed project is 188 units per hectare or 76 units per acre. As such the proposal conforms to the intent of the “Residential Areas” designation and the proposed development conforms with the Official Plan.

Section 5.5.11 of the Official Plan outlines the Watercourse policies. Development of lands is not permitted on lands designated as Watercourse. Section 5.5.11c) states that “the precise limits of the watercourse designation *shall* be determined by the City, in conjunction with Conservation Halton”. These policies also note that the City may require rehabilitation of degraded watercourse areas and seek opportunities for the provision of improved public access to the watercourse area.

The application will be subject to the Housing Intensification and Infill Development policies of the Official Plan. These policies provide specific criteria to consider when evaluating applications for infill residential intensification in existing neighbourhoods.

City of Burlington By-law 2020

The subject lands are currently zoned as “Development (D)”, as illustrated in Sketch 1 attached in Appendix 1. The applicant is proposing a rezoning to modify the current Development (D) zoning regulations to the “Residential -High Density (RH5)” and “Open Space (O2)” and “Open Space – Buffer Strip (O2)” zones to accommodate the proposed development. The proposed development will have sufficient land area to conform with Residential – High Density designation following the dedication of the OS and O2 lands.

Technical Review

On May 8, 2017 staff circulated a request for comments for the development application to internal and external agencies. Most comments have been received for this development application but additional comments are still forthcoming from Conservation Halton. Once these outstanding comments are received, a summary of these comments will be presented in the recommendation report to the Planning and Development Committee. The following is a summary of the agency comments that have been received to date:

Conservation Halton

Conservation Halton has reviewed the documents submitted for the Zoning By-law Amendment application but are unable to provide recommendation for approval of this rezoning at this time. Outstanding issues include:

- A Geotechnical assessment of the Long Term Stable Top of Slope needs to be provided by the applicant;
- The development limit or ‘limit of regulation’ can then be properly assessed;
- The Conservation authority has concerns about the underground parking lot and its susceptibility to flooding given its proximity to Shoreacres Creek;
- Note that consultation with the Ontario Ministry of Natural Resources is required to determine whether there are suitable trees on the property for bats- particularly at-risk bat species; and
- To consult with the Region of Halton with regards to identifying and delineating significant woodlands.

Region of Halton

Halton Region has received the above noted application and has offered preliminary comments on the buffering requirements from Shoreacres Creek. Staff note that a 10m buffer from a proposed development to adjacent significant woodlands is typically appropriate for infill situations. However, with the proposed development, a reduced buffer may be appropriate to help mitigate potential negative impacts on the

development on the creek. The Region notes that the Environmental Impact Assessment helps to provide further justification to support this reduction but asks the proponent and their consultants to ensure that the extent (width) of the buffering is sufficient to ensure that they can perform their intended function (before, during and after construction).

Buffers are to be considered components of the Regional Natural Heritage System located adjacent to key features of the natural heritage system and watercourses. They are intended to provide physical separation between development and site alteration and adjacent natural areas to help mitigate potential negative impacts on these features and their associated ecological functions. The Region suggests that the applicant apply appropriate measures to mitigate these impacts (eg. vegetated buffers and permanent fencing), and to confirm whether the buffer lands will be fenced-off to restrict access to the valleylands and form part of the Natural Heritage System lands to be conveyed to the City or Conservation Halton as part of this application.

Capital Works

The Capital Works Department have noted concerns with an outdoor parking space being partially located within the 5 metre road allowance dedication and have asked for the parking stall be relocated during the rezoning stage. This revision will need to be captured in a revised Functional Servicing Report. Capital Works have also asked for an updated Phase 1 Environmental Site Assessment as well as an updated copy of the Environmental Noise Impact Study and the Geotechnical Investigation (stamped and signed by a Professional Engineer) will be required for the Site Plan stage.

Parks and Open Space

The Parks & Open Space service of Capital Works have noted that the adequate parkland is available to accommodate the proposed development. The Tansley Woods Community Centre and the Tansley Woods Community Park are located within 0.8km – 2.4km distance for a city park. As a result, Parks & Open Space are recommending that cash-in-lieu of parkland dedication be applied for this development and recommend that setback and buffering distances from Shoreacres Creek be established in conjunction with Conservation Halton.

Transportation Services

The Transportation Planning Department has no concerns with the subject application but would prefer that the site only have one driveway access onto Upper Middle Road rather than two driveway accesses proposed as per the concept plan. Staff note that reducing the number of driveways would make travelling near the site safer for pedestrians and cyclists by removing a potential point of conflict with motorists. The Transportation Impact Study states that “when considering a scenario with only one

development driveway, the driveway was forecast to operate within acceptable levels, with no problem movements”. In addition to the removal of the west driveway, Staff would prefer that the east driveway width should be narrowed to 6.0 m as a means of reducing vehicle speeds when entering and exiting the site, and that all parking stalls be designed according to the City’s Site Plan Application Guidelines.

Landscaping and Urban Forestry

Landscaping and Forestry Staff have reviewed the Site Plan, Site Grading Plan, and Landscaping Concept Plan for the proposed development. Staff note that at least 8 city trees may be impacted by this application and that these trees were evaluated for health and structural condition, but impacts to these city trees were not included in the Environmental Impact Study and Tree Inventory and Preservation Study. Staff request that city trees must be included in future Tree Preservation Plan submissions as part of a future site plan application. Of the 58 trees on-site (within the developable area), 58 are proposed for removal (100% removal). Staff have been working with the applicant to provide more tree preservation particularly along the western edge and northern edges where the development abuts the existing townhomes. Additional tree planting will also be required. The replacement caliper of the trees to be removed is 1337cm. Best practices noted in City policy documents regarding tree removal on private sites recommend a 1:1 caliper replacement. Given that there are limited areas to replace the removed trees on the subject lands, final caliper replacement would need to be assisted by off-site planting. Replacement of the trees lost from the site would assist in the development achieving the City’s Strategic Plan initiative of ensuring “private development will increase the city’s tree canopy”. Staff also note that the city has delegated authority of woodlands over 0.5 hectares to the Region of Halton and that detailed comments with regard to woodlands has been deferred to Region of Halton staff.

Enbridge Pipelines Inc.

Enbridge Gas was circulated on the proposed development application due to the close proximity of their pipeline located to the south of the subject lands, running parallel with Upper Middle Road. Enbridge reviewed the subject application and had no objections to the rezoning application.

Financial Matters:

In accordance with the Development Application Fee Schedule, all fees determined to date have been received.

Public Engagement Matters:

Public Circulation

Two notice signs were also posted on the subject property in May 2017. The supporting technical studies and supporting materials for this development were posted on the City's website at www.burlington.ca/4063UpperMiddle. The application was subject to the standard circulation requirements for Zoning By-law Amendment applications. A public notice and request for comments were circulated in May 2017 to all owners/tenants within 120 metres of the subject property.

Neighbourhood Meeting

On June 19, 2017 a neighbourhood meeting was held at Tansley Woods Community Centre and was attended by approximately 25 members of the public.

Public Comments

In May staff began to receive correspondence from a number of members of the public regarding the proposed development. To date, Staff have received fifteen emails, four letters and five phone calls. The respondents had questions regarding the height of the proposed development, the proximity to the existing townhomes, the loss of greenspace and the negative impacts on Shoreacres Creek. The public comments received to date are included in Appendix II. Below is a summary of the comments received to date, organized by themes and areas of concern:

Existing Context:

- The building height is greater than the townhouse developments which surround the property;
- Other big condominium projects in the same area;
- Developers want to maximize profits by creating higher densities without consideration of quality of living;
- Not large enough frontages or setbacks from the road;
- There will be a significant decline in air quality with the reduction of trees and natural vegetation;
- Concern about loss of trees on the site and throughout the City; vines are currently overtaking the trees along Shoreacres Creek- from Upper Middle Road to Millcroft Park Drive;
- The maximum number of storeys permitted in the Official Plan is being exceeded, creating shadows and blocking the view of greenspace;
- There are too many development projects happening in this area; and
- The proposed rezoning is not sympathetic to the scale and character of the existing neighbourhood and will be adding significant stress to both the infrastructure and the environment.

Traffic:

- Increased vehicle congestion on Upper Middle Road from greater number of residents living in the area. Traffic in rush hour is “already horrible”;
 - The Traffic Study did not include other high density developments that will soon commence on the south side of Upper Middle Road;
 - Proposing a turn lane and widening the road will hardly improve the existing situation; and
 - Concern that an increase in traffic will cause vehicle diversion into nearby neighbourhoods.
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Conclusion:

This report provides a description of the development application, an update on the technical review of this application and advises that 17 emails, 3 letters and one public Comment Sheet has been received. A subsequent report will provide an analysis of the proposal in terms of applicable planning policies and will provide a recommendation on the proposed applications.

Respectfully submitted,

Mark Hefferton, MCIP RPP

Planner II – Development Review

905-335-7600 ext. 7860

Appendices:

- I. Location/Zoning sketch and the Detail Sketch are included as Appendix I.
- II. Public comments received to date are included as Appendix II.

Notifications:

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David Eccles
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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.

APPENDIX I –

Sketches



