1989 Appleby Line – Ward 5 - Ontario Land Tribunal (OLT)

Appeal Update- July 11, 2023

At its meeting of July 11, 2023 Burlington City Council approved the recommendation of Confidential Legal Report L-39-23 to accept an offer to settle the issues in dispute between 1989 Appleby Latch Limited and the City with respect to the non-decision appeal currently before the Ontario Land Tribunal ("OLT"). As part of this approval, Council approved the recommendation that the planning analysis attached as Appendix 'B' to L-39-23 be released publicly and posted on the City's webpage under Planning and Development Applications for Ward 5, while retaining solicitor/client privilege over the balance of this matter in its entirety.

The settlement between the City and 1989 Appleby Latch Limited resolves the issues in dispute between the City and 1989 Appleby Latch Limited on the basis these parties will seek OLT approval of a revised development proposal and related Official Plan and Zoning By-law amendments for the site. The revised development proposes the following:

- Decreased number of residential units from 475 to 463;
- Decreased retail floor area from 871m^2 to 786m^2;
- Decreased Floor Area Ratio (FAR) from 5.7:1 to 5.2:1;
- Decreased height of the east tower from 20 storeys to 17 storeys;
- Increased height of the west tower from 20 storeys to 22 storeys;
- Rotated west tower slightly so that it is parallel to the east tower rather than parallel to Appleby Line;
- An additional level of underground parking (for a total of 4 underground levels);
- Increased overall parking rate from 1.06 to 1.11 parking spaces per unit;
- Introduces 0.8m wide planting strip along north side of surface parking area adjacent to Hydro One corridor;
- Increased building setback from Appleby Line from 0m to 4.2m (ground floor); and
- Increased total amenity area from 9.03m^2 to 9.28m^2 per unit

<u>Transportation Impacts</u>

Impact on traffic in the Sheldon Creek neighbourhood was a common concern identified at the public meeting for this application. The revised proposal addresses transportation impacts through Transportation Demand Management (TDM) and traffic calming measures.

The TDM measures seek to minimize car dependence through a variety of means:

- prospective residents of the proposed development will be provided with information about transportation options, including transit and cycling;
- two on-site bicycle repair facilities will be provided for use by residents and visitors;
- bicycle parking and storage facilities will be provided in the amount of 272 long-term spaces and 48 short-term spaces;
- residents who do not purchase a parking space will receive a Presto card preloaded to allow for two years of travel; and,

- parking supply will be managed by unbundling parking space from residential unit so that each is purchased separately, allowing purchasers to adjust their unit purchase to reflect their parking needs, and limiting the sale of parking spaces to maximum one space per residential unit;

Significant traffic calming measures are also part of the settlement. In order to address the increase in traffic caused by the development, the appellant has agreed to fully secure traffic calming measures in the Sheldon Creek neighbourhood, in addition to any traffic calming measures that might be recommended to deal with existing conditions through the ongoing Sheldon Creek Neighbourhood Traffic Management Study. These measures were identified by the City as potentially being necessary to mitigate the impacts of additional vehicles on the road. The appellant will also bear of the cost of traffic monitoring by the City.

Finally, provision will be made in the site plan agreement for the development to allow City staff to access the underground parking garage for the purpose of conducting parking surveys. This will allow the City to assess the success of the transportation measures described above.

Shadowing Impacts

Concerns regarding shadowing impact of the proposed development were raised through the public consultation process. The revised proposal includes revised building heights: whereas previously two towers of 20 storeys were proposed, now the west tower is proposed to be 22 storeys and the east tower is proposed to be 17 storeys. The effect of this change is that the tallest building is located further away from the neighbouring buildings, and the shadow impacts on the roof of 1980 Imperial Way, where a solar panel array is located, are reduced. The proposed development complies with the City's Shadow Study Guidelines and Terms of Reference, as it meets quantitative standards for acceptable shadow impacts on Private Outdoor Amenity Spaces, Parks and Open Spaces, and the Public Realm and Sidewalk. Although the City does not have guidelines or policies that limit shadow impacts from development on private solar panel arrays, staff note that the revised proposal represents an improvement over the original proposal by reducing the amount of shadow cast on existing neighbouring solar panel arrays.

A copy of the planning analysis is available on the development application webpage, www.burlington.ca/1989appleby, along with a copy of the conceptual site plan for the revised development.

How does this impact the hearing scheduled to commence on September 11, 2023?

The City and 1989 Appleby Latch Limited will be requesting that the OLT convert the hearing that is scheduled to commence on September 11, 2023 to a settlement hearing. However, other parties to the appeal will still have the opportunity to review the settlement. If the hearing is converted to a settlement hearing, the City and 1989 Appleby Latch Limited will be requesting that that the OLT approve the revised Official Plan and Zoning By-law amendments to permit the revised development plan.

For up-to-date information on the status of the appeals, and for information about upcoming hearing dates, visit the OLT webpage for this appeal. Questions about the appeal process can be directed to the Case Co-ordinator using the contact information on the OLT webpage.