

Town of Whitby

Staff Report

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Report Title: DEV-36-22: Official Plan Amendment Application OPA-2022-W/05, Zoning By-law Amendment Application Z-23-22 – 3 Cassels Road East, Brooklin

Report to: Committee of the Whole

Date of meeting: April 3, 2023

Report Number: PDP 20-23

Department(s) Responsible:

Planning and Development Department
(Planning Services)

Submitted by:

Roger Saunders, Commissioner of
Planning and Development

**Acknowledged by M. Gaskell, Chief
Administrative Officer**

For additional information, contact:

Dave Johnson, Planner II – Heritage, ext.
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1. Recommendation:

1. That Council approve Official Plan Amendment Number 131 to the Whitby Official Plan (File No. OPA-2022-W/05), as shown on Attachment #7, and that a by-law to adopt Official Plan Amendment Number 131 be brought forward for consideration by Council;
2. That the Clerk forward a copy of the Report PDP 20-23, two (2) copies of the adopted Amendment, and a copy of the by-law to adopt Amendment Number 131 to the Whitby Official Plan, to the Region of Durham's Commissioner of Planning and Economic Development;
3. That Council approve an amendment to Zoning By-law # 1784, (File No. Z-23-22), as outlined in Report No. PDP 20-23;
4. That a by-law to amend Zoning By-law # 1784 be brought forward for consideration by Council; and
5. That the Clerk forward a Notice of Council's decision to those parties and agencies who requested further notification, including the Region of Durham's Commissioner of Planning and Economic Development.

2. Highlights:

- Applications for an Official Plan Amendment and a Zoning By-law Amendment have been submitted by Biglieri Group. on behalf of 2738183 Ontario Inc. for lands municipally known as 3 Cassels Road East in Brooklin.
- The proposal is to change the land use designation from Mixed Use to Residential and change the zoning to an appropriate residential zone category to permit the construction of a single detached dwelling on a new, severed lot.
- The property is located within the Brooklin Heritage Conservation District (HCD) Plan area. The existing building at 3 Cassels Road East would be maintained as a commercial use, and the proposed construction of the new dwelling on the severed lot would require a successful severance (Land Division) as well as a Heritage Permit.

3. Background:

3.1. Site and Area Description

The subject land is located at the southeast corner of Cassels Road East and Durham Street (refer to Attachment #1). The subject land is approximately 0.18 hectares in size. The subject land currently has one 2-storey building situated on the northern section of the property that fronts onto Cassels Road East, with driveway access on both Cassels Road East and Durham Street. The existing building was constructed in 1890 as a residence and has since been converted to commercial use.

Surrounding land uses include the following:

- commercial and residential uses to the east;
- residential uses to the south;
- mixed-use to the west; and
- a public park to the north (refer to Attachment #2).

3.2 Application and Proposed Development

An Official Plan Amendment Application has been submitted to change the Mixed-Use designation in the Official Plan and Brooklin Community Secondary Plan to Residential. A Zoning By-law Amendment Application has been submitted to change the zoning to an appropriate zone category. The applications seek to permit the construction of a single detached dwelling on a proposed severed lot.

3.2. Documents Submitted in Support

A number of documents were submitted in support of the applications including the following:

- A proposed conceptual severance plan, dated September 26, 2022 (refer to attachment #3);
- An Arborist Report, dated August 19, 2022, prepared by DAWhiteTreecare.com, which identifies the health of existing trees on the subject land and provides recommendations for preservation and/or removal;
- An Archaeological Assessment (Stage 1-2) prepared by WSP, dated August 17, 2022, which concludes that the location meets the requirements for a Stage 3 Assessment;
- A Cultural Heritage Impact Assessment prepared by WSP, dated August 2022, which provides a summary of the historic context of the subject land and the surrounding area. The Assessment concludes that both Municipal and Provincial policies have been met with respect to the proposed development. The Assessment provides alternative and mitigative strategies and recommendations regarding alternative placement of a new proposed driveway;
- A Functional Servicing and Stormwater Management Report prepared by T.Y.LIN International Canada Inc., dated September 2022, which concludes that the proposed development can be serviced by existing and future external infrastructure and internal proposed infrastructure. The report also concludes that a hydrogeology study is required to determine the infiltration rates of soils to confirm if the proposed stormwater management strategy will be adequate;
- A Noise Impact Study prepared by Sonair Environmental, dated August 22, 2022, which recommends that no noise attenuation or clauses are needed as both transportation and stationary noise both fall within guideline limits;
- A Phase 1 Environmental Assessment prepared by Palmer, dated September 7, 2022, which concludes that potentially contaminating activities were not identified and based on the findings no further assessment or remediation is required;
- A Planning Rationale Report prepared by Biglieri Group, dated October 2022, which concludes that the proposed applications are consistent with Provincial, Regional and Local policies and that the proposed infill development represents appropriate and desirable development;

- A Sustainability Rationale Report prepared by the Biglieri Group, dated October 2022, which states that the infill development will achieve and commit to Tier 1 of the Whitby Green Standard; and,
- A Traffic Impact Brief, prepared by Paradigm, dated September 7, 2022, which concludes that the subject land is forecast to generate no more than 4 trips in both the AM and PM peak hours. The report also concludes that the infill development may proceed without any requirements for off-site transportation improvements.

The above documents were circulated to relevant internal departments and external agencies for review and comment.

4. Discussion:

4.1 Region of Durham Official Plan

The subject land is designated “Regional Centre” within the Urban System, as depicted on Schedule ‘A’ Map A4 of the Durham Regional Official Plan (ROP). Regional Centres are focal points of urban activities. They are to provide a fully integrated array of institutional, commercial, major retail, residential, recreational, cultural, entertainment and major office uses. The subject land is also located within the boundary of the Brooklin Heritage Conservation District Plan. The ROP encourages the conservation, protection and enhancement of Durham's built and cultural heritage resources. The applications conform to the Durham Regional Official Plan.

4.2 Whitby Official Plan

The subject land is designated Mixed-Use in the Town of Whitby Official Plan (refer to Attachment #4). The goal of a Mixed-Use area is to encourage mixed residential and commercial development and redevelopment to ensure an intensive, transit-supportive, and efficient use of land (Policy 4.6.1.1) and to provide new opportunities for housing and employment that support the redevelopment of Mixed-Use areas (Policy 4.6.2.1). Lands designated Mixed-Use permit integrated mixed-use development and redevelopment that include residential, office, retail, restaurant, personal service, and community and/or institutional uses.

The subject land is located within the Brooklin Intensification Area and the Downtown Brooklin Major Central Area. Although those areas are intended for more intensive development, the Official Plan also recognizes that new buildings in the Downtown Brooklin Intensification / Major Central Area, including within the HCD, should complement each other in terms of design, massing, and use of building materials. New buildings should be designed in a manner that defines the Brooklin Community and complements the Brooklin Heritage Conservation District (Policy 4.3.3.3.5.2 d)).

The subject land is designated as Mixed-Use 2-HCD (refer to Attachment #5a) and is located within the Major Central Area of the Brooklin Community Secondary Plan (refer to Attachment 5b). Lands designated as Mixed-Use 2-HCD recognize the unique heritage character of the Brooklin Heritage Conservation District (HCD) Plan area.

The subject land is located within the Brooklin Heritage Conservation District. Whitby Official Plan policies regarding development within the HCD seek to conserve cultural heritage resources within HCD's (Policy 6.2.3.1.4 g)). The existing building at 3 Cassels will be retained. The Whitby OP also allows for consideration of new construction within the HCD, which shall be guided by the Brooklin HCD Plan guidelines and policies (Policy 6.1.3.7) and subject to recommendations of a required Cultural Heritage Impact Assessment (Policy 6.1.3.8).

Within Mixed-Use areas, lands are to contain two or more of the permitted uses. An Official Plan Amendment is required to permit the development of a single detached dwelling on the proposed severed lot.

It is recommended that Council approve the Official Plan Amendment to change the land use designation to Low Density Residential to accommodate the proposed development as discussed in more detail in Section 4.6.

The Draft Proposed Official Plan Amendment # 131 is shown on Attachment #6.

4.3 Zoning By-law

The subject land is zoned Mixed-Use Residential – Village of Brooklin (H MUR-VB) - Exception 5 in Zoning By-law # 1784 (refer to Attachment #7). The H MUR-VB-Exception 5 zone permits a variety of uses including a Bed and Breakfast establishment in an existing dwelling, converted dwelling, boarding, or lodging house in an existing dwelling, bakeshop or confectionary shop, personal service establishment, photocopy shop and a retail store.

A Zoning By-law Amendment is required to change the zoning to permit the proposed infill development of a single detached dwelling on the severed lot.

4.4 Heritage

The subject land is designated under Part V of the Ontario Heritage Act, as it is located within the Brooklin Heritage Conservation District (HCD) Plan area. The proposed infill development will be required to follow the policies of the Brooklin HCD, specifically Section 6 for guidance on design and construction of new development. In general, the policies of the Brooklin HCD Plan seek to allow new compact redevelopment between heritage

buildings, where the orientation of new buildings matches the dominant orientation of the street and require that front and side yard setbacks must comply with the zoning by-law.

The OPA and ZBA applications were considered by Heritage Whitby Advisory Committee (HWAC) at its meeting on March 14, 2023. In considering the applications HWAC passed the following motion:

“That the Heritage Whitby Advisory Committee supports the applications.”

Minutes of the March 14, 2023 HWAC meeting are provided in Attachment #8.

Should the applications be approved, the Cultural Heritage Impact Assessment would have to be updated to address the Brooklin HCD Plan requirements for the single detached dwelling once there is a more detailed proposed design. This would need to be submitted with a Heritage Permit Application for further consideration.

4.5 Conclusion

The applications for Official Plan Amendment and Zoning By-law Amendment for the proposed development meet the overall intent of the Whitby Official Plan being a minor adjustment in the existing land use designations; by providing an efficient and effective use of land and municipal services; by providing a built form that is an appropriate scale and massing within the historic downtown and Brooklin Heritage Conservation District; and, by providing an appropriate and compatible transition to the adjacent land uses without detracting from the Central Area.

Should the applications be approved, the proposed development will be subject to a future Land Division Application (severance) and Heritage Permit application, which would also require building design, elevations, and siting plan, as well as Letter of Undertaking (in lieu of Site Plan Agreement).

Site design matters, such as building elevations, location of proposed driveway access, engineering requirements, protection/preservation of mature trees wherever possible, or replacement, etc., would be considered through the Land Division application as well as through the Heritage Permit application processes.

The Heritage Permit application will have to demonstrate conformity with the Brooklin Heritage Conservation District plan policies for New Construction. Heritage planning staff and Community Advancement staff agree with the Cultural Heritage Impact Assessment that an alternative driveway location should be considered in order to preserve two (2) town-owned boulevard trees.

The amending Zoning By-law would change the zoning to an appropriate Zone category with provisions to accommodate the development of the single detached dwelling on the proposed severed lot.

5. Financial Considerations:

Not applicable

6. Communication and Public Engagement:

A Public Meeting was held on February 13, 2023 in accordance with the Town of Whitby Official Plan and the *Planning Act*. This meeting provided the public and interested persons and agencies the opportunity to make comments in respect of the Official Plan Amendment and Zoning By-law Amendment Applications. The meeting minutes are included in Attachment #9.

All individuals who registered as an interested party at the statutory public meeting and individual who provided written correspondence to the Town have been provided notice of the April 3, 2023 Committee of the Whole meeting.

A summary of the issues raised at the Public Meeting are as follows:

- Impact of the development on property values;
- Concern that a proposed building on the severed lot would block views from the neighbouring property;
- Concern that the zoning amendment to residential would impact the mixed-use zoning of surrounding properties; and,
- Concern that the fence between the subject land and adjacent property was not on the property line.

Written public correspondence was received from one resident. The written correspondence raised various questions/concerns/comments including:

- Timeline of development of land after severance;
- Additional traffic volume; and,
- There are no public sidewalks on Durham St. between Highway 7 and Cassels Rd. E.

The oral and written submissions by the public have been considered in determining the recommendation for approval of the proposed Official Plan Amendment and Zoning By-law Amendment Applications. As previously noted, the proposed development meets the overall intent of the Whitby Official Plan and is a minor adjustment in the land use designation. The proposed infill proposed an appropriate transition from the Mixed Use to the low density residential. The applicant's transportation consultant concluded that there is minimal traffic impact and no further off-site improvements are required. Issues related to fencing will be considered/resolved through the Land Division (severance) process, which will require completion of an updated land survey.

7. Input from Departments/Sources:

The following agencies have reviewed the application and have no objection:

- Enbridge Gas;
- Rogers Communications; and
- Whitby Fire and Emergency Services.

Refer to Attachment #8 for additional detailed comments.

Internal Departments

Community Advancements – Strategic Initiatives – Sustainability

Comments provided by the Sustainability Division more detail is required from the Sustainability Rationale Report as to how all mandatory criteria of Tier 1 are being followed. It is encouraged that consideration be given for advanced sustainability criteria through the uptake of voluntary Tiers 2-4.

For additional detailed comments please refer to Attachment #10.

Community Advancements – Strategic Initiatives – Downtown Development

Comments provided by Downtown Development include:

- concern regarding loss of mature street tree canopy (in particular the black walnut tree) and landscaped open space as a result of the creation of the new proposed residential lot and the relocation of the driveway access aisle of the retained lot.
- consideration of various options for developments to avoid or reduce adverse impacts to the heritage attributes of the properties at 3 Cassels Rd E and 24 Princess St in the Brooklin Heritage Conservation District.

For additional detailed comments please refer to Attachment #10.

Engineering Services

Comments from Engineering Services include:

- Engineering Services does not object to the proposed Official Plan Amendment application or the Zoning By-law Amendment application.
- The Stormwater Management Report, Grading/Service Plan(s) and Construction Management Reports will be reviewed in detail at the engineering review stage as a part of the subsequent application circulations.

For additional detailed comments please refer to Attachment #10.

Financial Services – Tax

Financial Services staff have advised that there are no taxes owing on the property.

Fire and Emergency Services

No comments

External Agencies

Region of Durham

Comments provided by the Region include:

- The proposed development is consistent with the Provincial Policy Statement and the Growth Plan and conforms to the Regional Official Plan.
- The proposal to convert the southern portion of the commercial property to a residential use will require a Record of Site Condition to be filed with the Ministry of the Environment, Conservation and Parks (MECP) to support the proposed application.
- No additional noise assessment is recommended for the proposed development.
- The north existing service connections shall remain to service the existing commercial lot.
- Water supply and sanitary sewer capacity are available to service the proposed development.
- The proposed amendment does not represent any Regional and/or Provincial concerns and would be exempt from Regional approval.

For additional detailed comments please refer to Attachment #10.

8. Strategic Priorities:

The development review process has provided opportunity for public and agency input. The recommendations contained in this report align with the objectives of the Organization Priority of the Corporate Strategic Plan.

This report is in a fully accessible format, which addresses the Town's strategic priority of accessibility. The future Site Plan Application(s) will be circulated to the Accessibility Advisory Committee for review and comment to ensure all accessibility requirements are met.

The proposed Official Plan and Zoning By-law Amendments incrementally increases the density on the subject land which provides a better use of existing infrastructure, which implements the Town's strategic priority of sustainability.

9. Attachments:

- Attachment #1 – Location Sketch
- Attachment #2 – Aerial Context Map

- Attachment #3 – Proponent’s Conceptual Severance Plan
- Attachment # 4 – Excerpt from Whitby Official Plan – Schedule A – Land Use
- Attachment # 5a – Excerpt from Whitby Official Plan – Schedule K – Brooklin Community Secondary Plan
- Attachment # 5b – Excerpt from Whitby Official Plan – Schedule K1 – Downtown Brooklin Major Central Area
- Attachment # 6 – Excerpt from Zoning By-law # 1784
- Attachment # 7 – Draft Proposed Official Plan Amendment # 131
- Attachment # 8 – Minutes of March 14, 2023 HWAC meeting
- Attachment # 9 – Minutes of February 13, 2023 Statutory Public Meeting
- Attachment # 10 – Agency and Stakeholder Detailed Comments