

Town of Whitby

Staff Report

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Report Title: DEV-33-22: Official Plan Amendment Application OPA-2022-W/04, Zoning By-law Amendment Application Z-22-22, Whitby 108 Victoria Inc., 106 & 110 Victoria Street West

Report to: Committee of the Whole

Date of meeting: February 26, 2024

Report Number: PDP 10-24

Department(s) Responsible:

Planning and Development Department
(Planning Services)

Submitted by:

R. Saunders, Commissioner of Planning
and Development

Acknowledged by M. Gaskell, Chief Administrative Officer

For additional information, contact:

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1. Recommendation:

1. That Council approve Amendment Number 134 to the Whitby Official Plan (File: OPA-2022-W/04), as shown on Attachment #7, and that a By-law to adopt Official Plan Amendment Number 134 be brought forward for consideration by Council;
2. That the Clerk forward a copy of Planning Report PDP 10-24, two (2) copies of the adopted Amendment, and a copy of the by-law to adopt Amendment Number 134 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 # 2585, (File: Z-22-22), as outlined in Planning Report No. PDP 10-24
4. That a by-law to amend Zoning By-law # 2585 be brought forward for consideration by Council upon Site Plan approval by the Commissioner of Planning and Development; and,
5. That the Clerk forward a Notice to those parties and agencies who requested to be notified of Council's decision, including the Region of Durham's Commissioner of Planning and Economic Development.

2. Highlights:

- Applications for Official Plan Amendment and Zoning By-law Amendment have been submitted by KLM Planning, on behalf of Whitby-108 Victoria Inc-Orpheus Management Services Inc. for lands municipally known as 106 & 110 Victoria Street West.
- The applications seek to increase the maximum permitted net residential density in the Official Plan and change the Zoning to permit the proposed development of an 18-storey mixed-use apartment building, containing 238 rental apartment dwelling units (including 30 affordable units), retail/office space at grade, with underground parking. The existing buildings are proposed to be demolished.
- Commenting internal departments/divisions and external agencies have indicated no objection to the proposed development, subject to their comments and requested conditions being addressed.
- The proponent will be required to submit a Site Plan Application at a later date and consolidate the property ownership into one parcel.
- It is recommended that the applications for Official Plan Amendment and Zoning By-law Amendment be approved, as the proposed development would provide an appropriate intensification opportunity within the Port Whitby Intensification Area, a Protected Major Transit Station Area. The proposed development will also contribute to Whitby's Municipal Housing Target of 18,000 new homes by 2031.

3. Background:

3.1. Site and Area Description

The subject land is located at the northeast corner of Byron St. S. and Victoria St. W., municipally known as 106 & 110 Victoria Street West (refer to Attachment #1). The subject land currently contains a 3-storey residential apartment building, which is proposed to be demolished.

The subject land is approximately 0.39 hectares (0.96 acres) in size.

Surrounding land uses include:

- residential uses (apartment buildings) to the north;
- Whitby Fire Station and residential uses (apartment buildings) to the south;
- institutional use (church and cemetery) to the east, and,
- Whitby Go Station and parking lot to the west (refer to Attachment #2).

3.2. Applications and Proposed Development

An Official Plan Amendment Application (File: OPA-2022-W/04) has been submitted to increase the maximum permitted net residential density from 300 units per net hectare to 618 units per net hectare on the subject land, as an exception to the High Density Residential Mixed Use designation, to permit the proposed development of 238 apartment dwelling units.

A Zoning By-law Amendment application (File No. Z-22-22) has been submitted to change the current Residential Type 4 (R4) and Commercial Type 2 (C2) zoning to permit the proposed 18-storey mixed use apartment building.

The original concept plan for the proposed development included a total of 208 apartment units (Refer to Attachment #3).

Following the Public Meeting, the applications were revised to add an additional 30 affordable units, for a total of 238 apartment units. The conceptual site plan was not revised; rather certain unit sizes would be reduced to accommodate the additional affordable units.

A Site Plan Application will be required at a later date.

3.3. Documents Submitted in Support

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

- An Archaeological Assessment (Stage 1-2) prepared by LHC, dated August, 2022, which notes that no archaeological resources were found and concludes that no further archaeological assessment of the study area is warranted;
- A Functional Servicing and Stormwater Management Report prepared by MTE Consultants, dated September 28, 2022, provides recommendations regarding site grading, on-site groundwater and soils conditions, storm drainage, sanitary servicing, water supply and servicing, utilities, and erosion and sediment control during construction;
- A Geotechnical Report prepared by Canada Engineering Services Inc., dated August, 2018, provides a summary of subsurface conditions including soil and groundwater analysis. The Report includes recommendations regarding geophysical soils and rock analysis and construction practices;
- A Hydrogeology Report prepared by Grounded Engineering, dated October, 2020, which includes recommendations regarding short-term and long-term groundwater seepage and a monitoring and mitigation program during dewatering activities;
- Landscape Plans prepared by Studio TLA, CGL Architects, KLM Planning Partners, dated September, 2022;
- A Noise Study prepared by Valcoustics, dated September, 2022, which includes recommendations regarding existing noise sources in the vicinity of the site, including road traffic on Brock Street South, Victoria Street West and Highway 401, as well as rail traffic on the Canadian National Railway (CN) Kingston Subdivision and Metrolinx GO Subdivision, which carries Lakeshore East GO rail service;
- A Phase 1 Environmental Assessment prepared by IFM Environmental, dated August 2022, which identified potentially contaminating activities and recommends further environmental investigation (Phase 2 ESA);

- A Planning Justification Report prepared by KLM Planning Partners Inc., dated September 2022, which concludes that the proposed development is consistent with provincial, regional, and municipal policies and will support the intensification of the Port Whitby Community Secondary Plan Area and support the increased amount of dwelling units that can be efficiently and functionally accommodated within the Port Whitby community;
- A Servicing Plan prepared by MTE Consultants Inc., dated September, 2022;
- A Conceptual Site Plan prepared by CGL Architects, dated September, 2022 (refer to Attachment #3);
- A Site Plan-Electrical prepared by CGL Architects, dated June, 2022;
- A Survey, prepared by J.D Barnes, dated April, 2021;
- A Transportation Study prepared by Dillion Consulting, dated September 2022, which assessed the impacts of the trips generated by the proposed development, proposes a parking supply of 241 residential and non-residential spaces, and concludes it will adequately serve the development's parking demands;
- An Addendum to the Transportation Study prepared by Dillion Consulting, dated October, 2023 which addressed comments on the transportation impact and parking study as well as potential site plan changes being considered to add affordable units to the development proposal;
- A Tree Inventory Preservation Plan, prepared by Kuntz Forestry Consulting Inc., dated June 2022, which includes recommendations regarding mitigation measures to minimize impacts to the preserved trees, tree protection barriers and fencing, tree protection measures prior to demolition;
- An Urban Design Plan prepared by Studio TLA, dated September, 2022, which provides an overview of public and private realm, built form, sustainability principles and implementation of the proposed urban design.

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

4. Discussion:

4.1. Provincial Policy Statement

The Provincial Policy Statement (PPS), 2020, directs urban growth and development to settlement areas and promotes efficient development patterns that optimize the use of land, resources and public investment in infrastructure and promote a mix of housing, including affordable housing. The PPS includes policies that require the provision of an appropriate range and mix of housing types and densities to meet projected requirements of current and future residents. The PPS also requires transit-supportive and increased densities and intensification, particularly in proximity to major transit stations.

The proposed development is consistent with the policies of the PPS in that it would provide increased and transit-supportive residential densities and intensification; affordable housing; takes advantage of existing infrastructure and public services facilities; and supports active transportation and transit in the neighbourhood.

4.2. A Place to Grow: Growth Plan for the Greater Golden Horseshoe

The Province's Growth Plan directs where and how growth should occur and promotes the creation of compact, vibrant, and complete communities that are transit supportive, pedestrian friendly, and reduce dependence on the automobile. The Growth Plan supports intensification of the existing built-up area, with a focus on Major Transit Station Areas, as well as along Transit Corridors.

The proposed residential development conforms to the Growth Plan policies, regarding compact and pedestrian oriented, transit-supportive development within a Major Transit Station Area and along a transit corridor. In addition, the proposed development represents an intensification opportunity within the built-up area of the Town of Whitby and is located within the 'Built Boundary' as defined by the Province and would contribute to the Town's intensification targets.

4.3. Region of Durham Official Plan

The subject land is designated "Living Area" on Schedule 'A' Map A-4 of the Regional Official Plan (ROP). The subject land is also with a Protected Major Transit Station Area (PMTSA) as identified in Regional Official Plan Amendment (ROPA 186) and in the new Envision Durham ROP, as adopted by Regional Council (both awaiting approval by the Province). Lands within a PTMSA are intended for increased densities and transit-supportive uses to take advantage of proximity to major transit systems.

Victoria St. W. is designated as a "Type B" Arterial Road and is also identified as a "Rapid Transit Spine" in the ROP.

The ROP encourages higher density, compact form development and intensification within proximity of Commuter Stations and Rapid Transit Spines.

The proposed development conforms to the ROP.

4.4. Whitby Official Plan

The subject land is within the Port Whitby Intensification Area as identified on Schedule 'B' – Intensification of the Town Official Plan (refer to Attachment #4) and is located within the Port Whitby Community Secondary Plan area as identified on Schedule 'F' (refer to Attachment #5). Port Whitby is identified as a Major Transit Station Area and is one of several Intensification Areas located within the Town of Whitby where increased residential densities and appropriate types of intensification are planned to occur.

The Port Whitby Major Transit Station Area seeks to provide for higher density residential and mixed use development at an appropriate scale to support transit and reduce vehicle dependence. It also encourages reductions in the use of private automobiles by promoting public transit, active transportation, auto sharing, and the use of Transportation Demand Management measures.

The Port Whitby Community Secondary Plan also seeks to provide for the growth and development of a mixed-use community through infilling and/or intensification, and to provide a mix and range of housing, appropriate in terms of scale, traffic generated, and demand on municipal services, and to create a compact neighbourhood with a range of services. (OP Policy 11.1.2.2; 11.1.2.3)

The Whitby Official Plan encourages the provision of affordable housing and seeks to achieve residential intensification and affordable housing, including opportunities for mixed-use development in appropriate locations (OP Policy 7.2.3).

The subject land is designated as High Density Residential Mixed Use on Schedule 'F' – Port Whitby Community Secondary Plan (refer to Attachment #5). The High Density Residential Mixed Use designation permits a maximum building height of 18-storeys, and a maximum density of 300 units per net hectare (OP Policy 11.1.11.3).

The proposed development is within the maximum permitted 18-storey building height. However, the total number of units proposed would exceed the maximum 300 units per net hectare, in part due to the smaller unit sizes. Therefore, the applicant has submitted an Official Plan Amendment application for an increase in the maximum permitted residential density on the subject land as it exists today, from 300 units per net hectare to 618 units per net hectare, to permit the proposed development of 238 apartment dwelling units.

4.5. Zoning By-law

The subject land is currently zoned Residential Type 4 (R4) on the 110 Victoria Street West portion of the subject land, and Highway Commercial (C2) on the 106 Victoria Street West portion (refer to Attachment #6). The R4 zone permits residential dwellings including an apartment dwelling house but does not allow for the proposed scale and density, nor commercial uses. The C2 zone does not permit residential uses.

A Zoning By-law Amendment is required to change the zoning to an appropriate zone category to implement the High Density Residential Mixed Use designation in the Port Whitby Community Secondary Plan, as well as to permit the proposed 18-storey mixed use development.

4.6. Conclusion

The subject land is designated High Density Residential Mixed Use and is also within an Intensification Area and Major Transit Station Area, where intensification and increased residential densities are intended to occur.

The proposed development represents an intensification opportunity within the built-up area of the Town of Whitby located within the 'Built Boundary' as defined by the Province. It provides an appropriate range and mix of housing types, including affordable housing and increased densities, to meet the needs of current and future residents. Development of the subject land for an apartment building with ground floor commercial space is appropriate as it is situated in proximity to major transit station, along an arterial road with access to transit facilities. In addition, the proposed

development utilizes the existing well-serviced municipal infrastructure and public transit in proximity to the subject land.

Commenting departments and external agencies have indicated no objection to, the proposed development subject to their comments and conditions being addressed.

Based on the detailed review of the applications and consideration of public and agency comments and requirements (refer to Section 6 and Section 7), it is concluded that the proposed development is consistent with the Provincial Policy Statement and is in conformity with the Growth Plan and the Region's Official Plan. The proposed Amendment is consistent with the overall goals and intent of the Official Plan by increasing residential density in an area where such mixed use and residential intensification is planned to occur (i.e. Major Transit Station Area; Intensification Area; Transit Corridor) and by providing an opportunity for affordable housing.

The proposed development will also contribute to the Town's committed Municipal Housing Target of 18,000 new homes in Whitby by 2031.

It is recommended that Council approve the proposed Official Plan Amendment (refer to Attachment #7) and Zoning By-law Amendment. The site-specific Official Plan Amendment would include an increase in density to permit the proposed 238 apartment dwelling units. The implementing Zoning By-law would include provisions regarding such matters as a reduced parking rate based on the proximity to the Transit Station, and a total 238 apartment dwelling units.

The proposed building design and articulation and other site-specific matters will be considered through the future Site Plan approval process.

5. Financial Considerations:

Not Applicable

6. Communication and Public Engagement:

A Public Information Meeting was held on March 27th, 2023, providing the public and interested persons and agencies an opportunity to comment on the Official Plan Amendment. The meeting minutes are included in Attachment #8. Public submissions were received at the Public Meeting and written submissions were received regarding the OPA and ZBA application.

A summary of the issues raised at the public meeting are as follows:

- Traffic impact in surrounding neighborhood, especially through traffic on Byron St. adjacent to Whitby Go Station;
- Displacement of current tenants; inclusion of affordable housing in proposed plans; and supporting residents in finding new dwellings and affordable housing;
- Building height and density; and
- Absence of communication from property owner/property management to residents about the proposed development, lack of communication/

responsiveness from landlord, property management to tenant inquiries about development application.

Written correspondence from the public was received from local residents and a community group. The written correspondence raised various concerns including:

- Date of construction commencement/completion date;
- Construction air pollution and noise pollution; construction damage; street access during construction;
- Tenant displacement dates; outcome of tenants following commencement of construction;
- Decision finality; appeal opportunities;
- Notification of meetings; requests to being added to interested party list;
- Cycling opportunities; cycling infrastructure; and,
- traffic impacts.

The concerns raised above have been considered through the assessment of the applications, as follows:

- The applications were revised to include an additional 30 affordable housing units;
- The proposed 18-storey building height is currently permitted. The increased density is due to generally smaller unit sizes being proposed and is consistent with recent amendments to the Regional Official Plan and Provincial Growth Plan;
- Construction related issues will be addressed through a Construction Management Plan associated with the future Site Plan approval process; and
- An addendum to the TIS was provided to address traffic and parking related comments to the satisfaction of Transportation staff.

In response to existing tenant concerns regarding communication and timelines, the proponent has advised that:

- The complex superintendent is available onsite and has been responding to individual enquiries from tenants as they arise;
- As not all tenants have email, lobby postings have been made informing tenants of application status (ongoing), timeline to redevelopment (to be determined), confirming that there is no urgency to relocate, and providing contact details for any specific questions;
- As for future actions, the above approach will continue as the site plan and building permit processes progress; and,
- The owner also has advance notice obligations under the Residential Tenancies Act when vacancy is required for redevelopment, which is meant to ensure transition to new housing can take place within a reasonable timeframe.

All individuals who registered as an Interested Party at the statutory public meeting and any individual who provided written correspondence to the Town have been provided notice of the February 26, 2024 Committee of the Whole Meeting.

7. Input from Departments/Sources:

The applicable agencies and departments were circulated the applications and copies of the associated supporting materials for their review and comment.

The following agencies have reviewed the applications and have no objection to the proposed development:

- Bell Canada;
- Canada Post;
- Conseil Scolaire Catholique;
- Conseil Scolaire Viamonde;
- Durham Catholic District School Board;
- Durham District School Board;
- Enbridge Gas Inc.;
- Ministry of Transportation Ontario;
- Hydro One;
- Rogers Communications; and,
- Superior Propane

Internal Departments

Community Advancements – Strategic Initiatives – Sustainability

Comments provided by Community Advancements indicated that:

- As part of the Development application for this site the Whitby Green Standard Site Plan Application Checklist and a stand-alone Sustainability Rationale Report will need to be completed and submitted; and
- All new Site Plan and Plan of Subdivision Applications are required to follow the Whitby Green Standard Site Plan Application Checklist and meet at a minimum Tier 1- Mandatory Performance Criteria as outlined in the respective Site Plan Checklist and Plan of Subdivision Checklist.

Refer to Attachment #9 for additional detailed Department Comments.

Community Services – Parks Division

Comments provided by parks staff indicated that:

- There is no identified need for a park in the proposed location so cash-in-lieu of parkland is required, as well as satisfying a condition of site plan approval, for collection at a rate in accordance with the Planning Act for each applicable rate (i.e. commercial vs. residential); and
- The incorporation of indoor and outdoor private amenity space for future residents of the development is encouraged.

Refer to Attachment #9 for additional detailed Department Comments.

Engineering Services

Engineering Services has indicated:

- No objection to the Official Plan Amendment application or Zoning By-law Amendment Application;
- Given the proximity to the GO Station, there is no objection to the proposed parking ratio reduction; and
- A number of documents will be required to be submitted for review during the subsequent Site Plan application circulation including, but not limited to:
 - Site Plan and Underground Parking/Basement Level(s) drawings; produced at the same scale;
 - Revised Stormwater Management Report;
 - Hydrogeological and Geotechnical Investigation Reports;
 - Construction Management Report; and,
 - Multi-Stage Construction Management Plan with Traffic Management.

Refer to Attachment #9 for additional detailed Department Comments.

Financial Services – Development Charges

Comments provided by Financial Services indicated:

- Development Charges Shall be payable in full prior to the issuance of the building permit unless the development (fully or partially) qualifies under Section 26.1 of the Development Charges Act. In that case the portion that falls under Section 26.1, will pay (the eligible portion of) DC according to the legislation in installments.
- The DC for non-residential GFA is always due prior to the issuance of the building permit.
- The base development charges rate will be the rate in effect of the date of a Site Plan Application submission. The applicant has 2 years from the date of Site Plan Application approval to obtain a building permit, otherwise the applicable development charge rate will be the rate in effect as of the date of building permit issuance.
- Since this property has existing buildings; in the case of redevelopment, a credit shall be allowed, provided 1) that the land was improved by occupied buildings within five years prior to the issuance of the building permit, and 2) the building permit has been issued for the development or redevelopment within five years from the date the demolition permit has been issued. Any redevelopment credit applied by the Town of Whitby will only go towards any Town of Whitby development charges owing on the redevelopment.

Refer to Attachment #9 for additional detailed Department Comments.

Financial Services – Tax

Financial Services staff have advised that there is a zero balance for property taxes for 106 Victoria St. W. and a balance owing for property taxes for 108 Victoria. St. W.

Fire and Emergency Services

Comments provided by Fire staff note that the property is within the TSSA and Environment Canada hazard zone, in proximity to the Superior Propane facility on Victoria St. E.

Planning and Development staff note that Superior Propane has indicated no objection to approval of the applications.

Refer to Attachment #9 for additional detailed Department Comments.

External Agencies

Canadian National Rail (CNR)

Comments provided by CP indicate that:

- a noise analysis is required; and
- conditions/clauses will be required to be included within future development agreements and/or offers to purchase, regarding such matters as: noise; alterations or expansions to railway facilities; restrictive covenants; noise isolation measures; responsibility for maintenance measures satisfactory to CN; costs; easements for operational noise and vibration emissions; etc.

Refer to Attachment #9 for additional detailed Agency Comments.

Central Lake Ontario Conservation Authority (CLOCA)

Comments provided by CLOCA indicated no objection to the proposed applications.

CLOCA has also indicated certain conditions (to be addressed through future Site Plan approval process) regarding:

- compliance with the requirements of the Pringle Creek Master Drainage Plan;
- dewatering;
- incorporation of bird-friendly design principles into its architectural design;
- high aquifer vulnerability; and
- Source Protection Plan of the Clean Water Act.

The subject lands are not regulated through Ontario Regulation 42/06 of the Conservation Authorities Act and as such, a permit for lot development and/or creation is not required from CLOCA.

Refer to Attachment #9 for additional detailed Agency Comments.

Durham Regional Police Service

Durham Regional Police Service noted obstruction of the microwave links is their primary concern in these cases. However, following review of their system map, any construction in this area will have no obstruction concerns for the microwave links of the NextGen system. Building coverage issues may exist later but this can only be tested for and identified after building construction.

Refer to Attachment #9 for additional detailed Agency Comments.

Region of Durham

Comments provided by the Region indicated that:

- The proposed application is consistent with the PPS, in that it supports higher density and mix-uses that promote efficient transit services and rail transportation and creating pedestrian and transit-oriented community;
- The proposed application conforms with the Growth Plan, in that the proposed high density mixed-use development promotes the intensification of the Whitby GO MTSA and represents transit-supportive densities to optimize existing transit services;
- The proposed amendment conforms with the ROP, in that it would facilitate the doubling of the permitted density to a total of 618 upnh within walking distance to the Whitby GO MTSA and supports compact urban form, pedestrian-friendly environment and transit-oriented developments and efficient transit services along Regional corridors; and,
- Subject to resolution of the Region's comments, the OPA would be exempt from Regional approval.

Additional comments provided by the Region will be considered further through future Site Plan approval.

Refer to Attachment #9 for additional detailed Agency Comments.

Go-Transit Railway (Metrolinx)

Comments provided by Metrolinx indicated:

- No objection to the [applications];
- Metrolinx is generally supportive of increased density in proximity to GO stations;
- Metrolinx requests that signage and/or design measures be implemented to help residents be mindful of pedestrians attempting to access the GO station via Byron Street, due to the anticipated increase in active transportation to access GO stations in the future;
- Warning Clauses will be required to be included in future agreement (e.g. Site Plan/Development/offers to purchase, sale or lease) for units within 300 metres of the railway right-of-way; and,
- An environmental easement for operational emissions will be required to be registered on title against the subject residential dwellings in favour of Metrolinx.

Refer to Attachment #9 for additional detailed Agency Comments.

8. Strategic Priorities:

The development of a high density, mixed-use rental apartment building, with affordable housing units, contributes to meeting the priorities of the Community Strategic Plan,

specifically Action Item 1.3.4 under Pillar 1: Whitby's Neighbourhoods by providing a variety of housing options.

This report is in a fully accessible format, which addresses the Town's strategic priority of accessibility. The future Site Plan Application will be circulated to Accessibility staff for review.

The proposed development 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 #3a – Proponent's Conceptual Site Plan

Attachment #3b – Proponent's Conceptual Elevation

Attachment #4 – Excerpt from Town of Whitby Official Plan Schedule 'B' –
Intensification

Attachment #5 – Excerpt from Town of Whitby Secondary Plan Schedule 'F' Port
Whitby Community Secondary Plan

Attachment #6 – Excerpt from Zoning By-law # 2585

Attachment #7 – Draft Proposed Official Plan Amendment #134

Attachment #8 – Minutes of Public Meeting, March 27, 2023

Attachment #9 – Agency & Stakeholder Detailed Comments