

# Town of Whitby

## Staff Report

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**Report Title: DEV-21-18: Official Plan Amendment Application OPA-2018-W/06, Zoning By-law Amendment Application Z-33-18, Devon Downs Developments Ltd., 2002 Rossland Road East**

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**Report to:** Committee of the Whole

**Date of meeting:** April 8, 2024

**Report Number:** PDP-15-24

**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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Heritage, Planning & Development  
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### 1. Recommendation:

1. That Council approve Official Plan Amendment Number #135 to the Whitby Official Plan (File No.: OPA- 2018-W/06), as shown on Attachment #6, and that a By-law to adopt Official Plan Amendment Number #135 be brought forward for consideration by Council;
2. That the Clerk forward a copy of the Planning Report PDP 15-24, two (2) copies of the adopted Amendment, and a copy of the by-law to adopt Amendment Number # 135 to the Whitby Official Plan, to the Region of Durham's Commissioner of Planning and Economic Development;
3. That Council approve the amendment to Zoning By-law # 1784, (File No.: Z-33-18), as outlined in Planning Report No. PDP 15-24 and that a by-law to amend Zoning By-law # 1784 be brought forward for consideration by Council; and
4. 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 (OPA) and Zoning By-Law Amendment (ZBLA) as well as an application for Site Plan Approval have been submitted by D.G. Biddle & Associates on behalf of Devon Downs Developments Ltd. for lands municipally known as 2002 Rossland Road East, located on the north side of Rossland Road East between Meadow Road and William Davidson Street.
- The OPA application seeks to add a site-specific exception policy to increase the maximum permitted residential density in the Official Plan from 65 units per net hectare to 75 units per net hectare. The ZBLA application seeks to change the Zoning to an appropriate zone category with an increase in the maximum building height from 3 storeys to 4 storeys. The applications are to allow for the proposed development of a 4-storey apartment building, containing a total of 59 apartment dwelling units.
- All of the commenting departments and external agencies have indicated no objection to the proposed development, subject to their comments and requested conditions being addressed.
- It is recommended that the applications for Official Plan Amendment and Zoning By-law Amendment be approved, the increase in height and number of units is minor in nature; the proposed development would provide an appropriate intensification opportunity; medium density residential development is already permitted on the subject land; and, the development would contribute to Whitby's housing pledge of 18,000 new homes by 2031.

## **3. Background:**

### **3.1 Site Area and Description**

The subject land is municipally known as 2002 Rossland Road East and has an area of approximately 0.8 hectares, with approximately 45 metres of frontage on the north side of Rossland Road East, west of William Davidson Street (refer to Attachment #1).

The subject land is currently vacant and has some overgrown vegetation. It appears from aerial photographs that some of the rear yards and associated amenity space of the adjacent single detached uses to the east have encroached on the subject land, including gardens, patios, and accessory structures refer to attachment # 2, which will need to be resolved between the owners prior to development proceeding.

Surrounding uses include:

- Single detached dwellings to the north;
- Single detached dwellings to the east;
- Single detached dwellings to the south;
- Whitby Free Methodist Church to the west.

### **3.2 Applications and Proposed Development**

The applications propose the development of a 4-storey apartment building with a total of 59 dwelling units. Access would be provided from Rossland Road with at grade parking for 90 vehicles.

An Official Plan Amendment Application has been submitted to add a site-specific policy exception to increase the maximum permitted residential density from 65 to 75 dwelling units per net hectare.

A Zoning By-law Amendment Application has been submitted to Increase the maximum permitted building height from 3 to 4 storeys; increase the maximum permitted number of dwelling units from 43 to 59; and decrease the minimum required front yard setback from 7.5 m to 6.0 m.

The proponent has also submitted an application for Site Plan Approval for the proposed development which will be processed through the Commissioner of Planning and Development.

### **3.3 Documents Submitted in Support of the Applications**

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

Original Submission:

- Proposed Site Plan, prepared by Mark J. Riva Architect;
- Proposed Floor Plans and Elevations, prepared by Mark J. Riva Architect;
- An Airport Proximity Plan, prepared by D.G. Biddle & Associates (Biddle), dated October 2018;
- An Archaeological Assessment prepared by Northeastern Archaeological Associated Limited;
- An Environmental Impact Study, prepared by Niblett Environmental Associates Inc., dated December 2018;
- A Functional Servicing and Stormwater Management Report, prepared by Biddle, dated November 2018;
- A Noise Impact Study; prepared by Biddle, dated November 2018;
- A Phase I Environmental Site Assessment, prepared by Golder Associates, dated October 2017;
- A Planning Justification Report, prepared by Biddle, dated October 2018;
- A Reference Plan 40R-16722, prepared by Donevan Fleischmann Petrich Ltd., dated January 26, 1996;
- A Site Grading Plan, prepared by Biddle, dated July 2018; and,
- A Site Servicing Plan, prepared by Biddle, dated July 2018.

Following circulation of the original submission materials and review by commenting agencies and departments, the following supplemental information was provided.

Revised/Updated Submissions:

- Angular Plane Study, prepared by Marc J. Riva Architect, dated April, 2023;
- Aeronautical Study, prepared by OCTANT Aviation Inc., dated July 11, 2023, which concluded that the location of the proposed structure would pose no conflicts to Oshawa Airport Zoning Regulations or maximum take-off surface following the clearway elevations;
- Aeronautical Obstacle Assessment Coordinates, prepared by NAV Canada, dated August 2, 2023 and Application Evaluation Letter to the Proponent, prepared by NAV Canada, dated, September 13, 2023 which concludes NAV Canada has evaluated the captioned proposal and has no objection to the project as submitted;
- (Revised) Airport Proximity Plan (AP-1) and (AP-2), prepared by D.G. Biddle & Associates Limited, dated August, 2019;
- Construction Management Report, prepared by D.G. Biddle & Associates, dated May 2023;
- (Revised and Updated) Erosion and Sediment Control Plan, prepared by D.G. Biddle & Associates, dated July, 2023;
- (Revised and updated) Functional Servicing and Stormwater Management Report, prepared by D.G. Biddle & Associates, dated January 5, 2023, which concluded that watermain services and sanitary sewer services can be provided with existing infrastructure; surface/underground storage can handle peak 100 year events; on-site storm sewers have been sized to accommodate a 5-year return post development per Town of Whitby guidelines; permanent stormwater quality controls are proposed; and, pre-development water balances cannot be met due to site constraints so best efforts towards site infiltration targets will be employed, along with temporary sediment control measures during construction;
- Infiltration Testing Letter Report prepared by Cambium Inc., dated November 23, 2023; which concluded the site is suitable for best management practices for bioretention swale infiltration systems as requested by CLOCA;
- Landscape Plans prepared by Henry Kortekaas & Associates dated, August 2017;
- (Revised) Noise Study, prepared by Jade Acoustics Inc, dated December 19, 2019; which concluded that appropriate noise abatement measures will be required which can be addressed through the Site Plan approval process;
- Shadow Studies dated April 2022 and September 2022;
- Traffic Management Report, prepared by D.G. Biddle & Associates Ltd., dated August 2019, Traffic Impact Brief prepared by D.G. Biddle Associates Ltd., dated February 2020 and a Traffic Impact Study, prepared by GHD, dated June 22, 2023, which concludes an adequate supply of parking can be provided on site, and the traffic generated by the proposed development can be accommodated by the existing network and study intersections without adverse impacts;

- (Updated) Site Grading Plans prepared by D.G. Biddle & Associates, dated July 2018;
- (Updated) Site Plan and Elevations, prepared by D.G. Biddle & Associates, dated July, 2023 (refer to Attachments #3a and 3b);
- (Revised and updated) Phase One Environmental Site Assessment, prepared by WSP Canada Inc., dated May 17, 2023, which concluded no water wells were identified on the property and although the site was previously used for agricultural purposes until 1974, it has since been vacant, and no contaminants were found on the property;
- Site Lighting Photometric Plan, prepared by D.G. Biddle & Associates Limited, dated September, 2019;
- Water Balance Study, prepared by PGL Environmental Consultants, dated February, 2020 which concluded no net loss of infiltration was anticipated at the site due to the proposed development as losses in infiltration are mitigated by the LID measures which are likely to increase infiltration volumes above pre-development levels.

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

#### **4. Discussion:**

##### **4.1 Provincial and Regional Planning**

The general goals and intent of the policies in the Province's Provincial Policy Statement (PPS), 2020, the Province's A Place to Grow: Growth Plan for the Greater Golden Horseshoe, and the Durham Regional Official Plan are to use land within settlement areas efficiently; promote a mix of housing types and tenures; plan for and support appropriate forms of intensification, including (re)development on underutilized lots.

The proposed development is consistent with the policies of the PPS and conforms to the Province's Growth Plan and the Region's Official Plan in that it takes advantage of existing infrastructure and public services facilities; provides increased residential densities on underutilized lots; supports a range of housing choice and mix; and represents an appropriate form of intensification along an arterial road, at the edge of existing neighbourhood, and within the 'Built Boundary' as defined by the Province, contributing to the Town's intensification allocation.

##### **4.2 Whitby Official Plan**

The subject land is designated Residential on Schedule 'A' – Land Use of the Town of Whitby Official Plan (refer to Attachment #4a). The subject land has been designated to permit medium density residential development since the late 1980's, including a site-specific Official Plan policy (Section 4.4.5.3.c) through previous Official Plan Review in 2018, which indicates that residential development shall include and integrate Medium Density Residential

components in accordance with the Medium Density Residential policies. Medium Density Residential areas permit various forms of multiple unit dwellings, including apartments, at a height of up to 4 storeys and a density range between 30 and 65 dwelling units per net hectare.

The OPA application seeks to include a site-specific exception policy in the Official Plan to increase the current maximum permitted residential density from 65 units per net hectare to 75 units per net hectare.

The subject land also includes areas of Natural Hazards identified on Schedule 'C' – Environmental Management, related to Corbett Creek to the south (refer to Attachment #4b). Development applications on natural hazards require the review and consideration by Central Lake Ontario Conservation Authority.

The applicant's Environmental Impact Study and other environmental reports have been reviewed by the Town, Region and CLOCA. The supporting materials indicate that there will be no negative impacts on the natural heritage features or their ecological functions, provided the report recommendations (e.g. Low Impact Development (LID) measures) are implemented [through conditions of site plan approval]. As such, the Region and CLOCA are satisfied and have no objection to approval of the applications. The EIS assessed compensation for the unevaluated wetland and determined removal of any vegetation from the subject land could be considered through compensation elsewhere within the Corbett Creek watershed, including potential for compensation on Town owned land. The subject land has been designated and intended for some form of medium density development for decades. The proposed increase in density is minor in nature. The proposed development provides for compact built form, in an appropriate location along an arterial road at the edge of an existing neighbourhood, with appropriate consideration for transition (angular plane) to adjacent low density residential uses. The proposed Amendment is consistent with the overall goals and intent of the Official Plan regarding providing for a range of housing types and tenures and accommodating appropriate forms of intensification.

It is recommended that Council approve the Official Plan Amendment (refer to Attachment #6) that seeks a minor increase in the maximum permitted residential density on the subject land.

#### **4.3 Zoning By-law 1784**

The subject land is currently zoned Holding-Residential Zone, H-R5A\* in the Town's Zoning By-Law 1784, which has been in place since 1989. Subject to removal of the 'H' holding symbol, the R5A zone provisions would allow for an apartment dwelling house with a maximum building height of 3 storeys and a maximum of 43 dwelling units. The 'H' - holding symbol was originally applied to the subject land to ensure that Development Charges were collected prior to removal of the 'H'. However, Development Charges are now collected at the building permit stage, so the purpose of the 'H' is no longer relevant.

An amendment to the Zoning By-Law is required to increase the maximum permitted building height from 3 to 4 storeys; to increase the maximum permitted dwelling units from 43 to 59, and to reduce the minimum required front yard from 7.5 m to 6.0 m or as required.

The subject land is already zoned to permit medium density residential development in the form of an apartment building. The proposed Zoning By-law Amendment seeks a minor increase in height and a minor increase in units and would implement the intent of the Official Plan for medium density residential development on the subject land.

It is recommended that Council approve the Zoning By-law Amendment application that seeks a minor increase in maximum permitted building height and number of units.

#### **4.4 Conclusion**

The subject land has been designated in the Official Plan and Zoned in By-law 1784 to permit medium density residential uses for decades. Lands designated and zoned for medium density residential uses are intended to support a variety of residential uses including apartment buildings up to 4 storeys in height. The OPA and ZBLA applications seek only a minor increase in the maximum permitted height (Zoning only) and density, in an appropriate location along an arterial road, at the edge of the existing neighbourhood. The proposed development represents an intensification opportunity within the Built Boundary, with consideration for impact on, and transition to, adjacent low density residential land uses, through appropriate site design.

Commenting departments and agencies have indicated support for, or no objection to, the proposed development subject to their comments and conditions being addressed [through site plan approval].

Based on the detailed review of the applications and consideration of public input (refer to Section 6) and agency comments (refer to Section 7), it is concluded that the proposed development is consistent with the Provincial Policy Statement, is in conformity with the Growth Plan and the Region's Official Plan and meets the overall goals and intent of the Town's Official Plan. Therefore, it is recommended that Council approve the applications.

The proposed building design and articulation will be dealt with through the Site Plan approval process and will be designed to be appropriate within the existing and planned built form context.

#### **5. Financial Considerations:**

Not Applicable

#### **6. Communication and Public Engagement:**

A Public Meeting was held on March 25, 2019 in accordance with Town of Whitby Official Plan and the Planning Act. This meeting provided the public and interested

persons and agencies the opportunity to make representation in respect of the Official Plan Amendment and Zoning By-law Amendment Applications. The meeting minutes are included in Attachment #7.

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 April 8th, 2024 Committee of the Whole Meeting.

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

- Concerns that the proposed development would add to traffic congestion, making it difficult to turn onto Rossland Road;
- Environmental concerns and modifications to the drainage ditch, concerns related to destruction of creek adjacent to property which is home to wildlife;
- Privacy, security, lighting, and shadowing concerns about the proposed development in residents' backyards, homes and neighbourhood;
- Compatibility of the proposed development with the surrounding community which consists mainly of bungalows, changes to neighbourhood character;
- The development would impact mature trees and the scenery from a resident's backyard and loss of the wooded lot adjacent to residents' homes;
- Building Height and size, topography, proximity to the airport and building height impacts on plane flyover area.

Written public correspondence raised various concerns including:

- Traffic congestion on Rossland Road and William Davidson St.;
- Safety due to increased traffic;
- Privacy impacts;
- Property value impacts;
- Request for privacy fencing at the property line;
- Shadow impacts;
- Loss of trees and vegetation / loss of wildlife habitat; and
- Noise impacts.

The oral and written submissions by the public have been considered in the review and assessment of the proposed Official Plan Amendment and Zoning By-law Amendment Applications. The concerns raised above were considered further by the applicant's consultants and by commenting departments and agencies as follows:

- The revised and updated Traffic Impact Study, dated June 22, 2023 determined peak hour trips to/from the site would be similar to the traffic patterns observed at William Davidson Street/Rossland Road East intersection. The study concludes that under the future traffic forecasts, the traffic generated by the proposed development along with non-site related traffic growth can be accommodated by the study intersections. Traffic generated by the proposed development does not add significant adverse impacts on the study intersections. A construction



management report was provided which outlined how traffic will be managed during the construction project.

- The environmental reports determined that grading and drainage impacts can be addressed through best practices regarding site infiltration targets, including the implementation of a bio retention swale, along with temporary sediment control measures during construction, as well as infiltration being mitigated by LID measures which are likely to increase infiltration volumes above pre-development levels.
- A tree preservation fence will be included on the site to separate the vegetation which will remain. A tree preservation zone is incorporated on the Landscape Plan and identifies which trees will be preserved and retained.
- A noise study determined that with the incorporation of appropriate noise abatement measures it is feasible to develop these lands for residential use. A construction management plan has been provided and outlined measures to minimize noise disruption, including complying with the Town of Whitby Noise By-law and not permitting construction activities during Sundays, holiday weekends and during evenings.

## **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 indicated no objection to the OPA and ZBLA applications, subject to any outstanding comments/conditions being addressed (through the Site Plan approval process):

### **Internal Departments:**

- Accessibility
- Planning and Development Services - Urban Design, Landscaping;
- Community and Marketing Services Department Parks Development Division;
- Engineering Services;
- Whitby Hydro Energy Services Corporation; and,
- Whitby Fire and Emergency Services.

### **External Agencies:**

- Central Lake Ontario Conservation Authority (CLOCA);
- City of Oshawa;
- Canada Post;
- Durham District School Board;
- Durham Catholic District School Board;
- Durham Region;
- Enbridge; and,
- Oshawa Airport Authority.

Refer to Attachment #8 for additional detailed comments which will be addressed through the site plan approval process.

### **8. Strategic Priorities:**

The development of a medium density residential apartment 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(s) will be circulated to the Accessibility Advisory Committee for review and comment to ensure all accessibility requirements are met.

The proposed residential 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

Attachment #3a – Proponent's Proposed Site Plan

Attachment #3b – Proponent's Proposed Building Elevation Plans

Attachment #4a – Excerpt from Schedule 'A' – Land Use, Whitby Official Plan

Attachment #4b – Excerpt from Schedule 'C' – Environmental Management, Whitby Official Plan

Attachment #5 – Excerpt from Zoning By-law 1784

Attachment #6 – Draft Proposed Official Plan Amendment #135

Attachment #7 – Excerpt from Minutes of Public Meeting

Attachment #8 – Summary of Detailed Agency Comments