



PLANNING AND BUILDING SERVICES MEMORANDUM

FILE: D14-1676

TO: MAYOR J. LEHMAN AND MEMBERS OF COUNCIL

PREPARED BY: G. DICKSON, RPP, SENIOR PLANNER

FROM: M. BANFIELD, RPP, DIRECTOR OF PLANNING AND BUILDING SERVICES

NOTED: A. MILLER, RPP, GENERAL MANAGER OF INFRASTRUCTURE AND GROWTH MANAGEMENT

M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RE: EXTENSION OF TIMELINE FOR ZONING BY-LAW AMENDMENT APPLICATION 39-67 DUNLOP STREET WEST AND 35-37 MARY STREET (WARD 2) BARRIE WATERFRONT DEVELOPMENTS INC.

DATE: SEPTEMBER 16, 2019

Purpose & Application Details:

The purpose of this memorandum is to advise members of City Council of the status of an application for Zoning By-law Amendment, as submitted by Weston Consulting Planning + Urban Design on behalf of Barrie Waterfront Developments Inc. for lands municipally known as 39-67 Dunlop Street West and 35-37 Mary Street. A Location Map is included as Appendix 'A'.

Site-specific amendments to the City of Barrie Zoning By-law No. 2009-141, as amended, have been proposed to facilitate the construction of a mixed-use, high-rise development, consisting of two residential towers comprised of 534 units, including a 30-storey building (Phase I) and 34-storey building (Phase II) atop a 6-storey podium (with ground floor retail/commercial uses and parking on Levels 2-6). The proposed development would require an amendment to the zoning by-law from the current Central Area Commercial – 1 ('C1-1') Zone to Central Area – 1 ('C1-1') Zone, Special Provision.

Overview:

Recent legislative changes have been made to the *Planning Act*, notably, the Royal Assent of Bill 108 (*More Homes, More Choices Act, 2019*) in June 2019 that mean the prescribed timelines for municipalities to make decisions on applications for Draft Plans of Subdivision, Official Plan Amendment, and Zoning By-law Amendment have been reduced.

Whereas, Section 34(11) of the *Planning Act* currently provides for a 150 day period for Council to make a decision on a zoning by-law amendment (from the date of deeming an application 'complete'), the new legislated timelines will result in a 90 day period. The *Planning Act* provides for the right to appeal a zoning by-law amendment application to the Local Planning Appeal Tribunal (LPAT) should a decision not be made within these timelines.

Similarly, the *Planning Act* has reduced the prescribed timelines for municipalities to review and make decisions on applications for draft plans of subdivision and official plan amendments from 180 days and 210 days, respectively, to 120 days. Rights to appeal these applications to the LPAT based on a non-decision of Council are also reserved in the *Planning Act*.

As the subject application was received and deemed complete on May 1, 2019, prior to the enactment and Royal Assent of Bill 108, the applicable timelines are those that were in effect as a result of Bill 139. The applicant currently maintains the rights to appeal a non-decision of Council to the LPAT following the 150 day period, which ends on September 28, 2019.

In recognition of these timelines, the applicant has submitted a letter to the City (Appendix 'B'), acknowledging that the application is not anticipated for consideration by General Committee until November 18, 2019, and on that basis, has confirmed that an appeal on a non-decision of Council will not be filed with the LPAT prior to November 19, 2019.

In accordance with the *Local Planning Appeal Tribunal Act, 2017*, the applicant's Planning Justification Report and associated plans, reports and studies, as submitted with the application, are the only documents that would be heard as evidence by the LPAT in the event of an appeal. To add to the public record, staff have prepared this memorandum to provide basic details about the key planning issues that remain outstanding and under discussion/review, or which require additional information and analysis prior to reporting to General Committee on the development proposal.

Public Consultation

A Neighbourhood Meeting was held on April 23, 2019 regarding the proposed zoning by-law amendment. A total of forty (40) local residents attended the meeting. A Public Meeting was held on June 26, 2019 in accordance with the *Planning Act*. The matters raised at these meetings included the following:

- Visually appealing architecture/urban design;
- Preservation of heritage architecture (interior and exterior);
- Improved conditions for the downtown;
- Excessive height and density;
- Supply of parking (for the downtown and for the specific development proposal);
- Opportunities for underground parking (rather than in podium);
- Availability of existing municipal infrastructure;
- Fire prevention and suppression;
- Increase in property assessment (i.e. municipal taxation);
- Residential unit size and supply of various suite types;
- Tenure of housing (i.e. rental, condominium, affordable housing);
- Provision of affordable housing units (i.e. 10%);
- Use of universal design techniques;
- Design should include green building features (i.e. LEED Gold);
- Incentives for the supply of rent geared to income units;
- Timing of proposed development (i.e. demolition and start of construction); and,
- Relocation of Barrie Film Festival Headquarters/demolition of Uptown Theatre.

Planning and Land Use Matters Under Review

Highlighted below are some of the key planning items that remain under discussion and/or require additional information for staff to complete a fulsome analysis of the issues and to provide an informed report to General Committee on this application. These include, but are not limited to:



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Consent Application

The applicants are anticipating the submission of an application for consent to sever lands for the creation of a new lot. The effect of the application would be the creation of two separate parcels (the property is currently merged on title) and to develop the project in two phases. The applicable zoning would refer to the entire landholding.

Pending the receipt of that application, additional zone provisions may need to be added to the final site-specific amending zoning by-law as it relates to a phased development (i.e. parking).

Land Sale & Site Design/Layout

The applicant is currently contemplating the layout and site design of their project and has initiated discussions with the City with respect to the potential acquisition of City-owned lands at the south-east corner of the subject property (used as a bus lay-by). The applicant has been provided with general information as it relates to the application process for road closing or purchase of City-owned land. This includes the requirement of Council to approve the surplus and sale of the lands.

Pending the outcome of that process, the extent of development lands and aspects of the proposed development (i.e. number of live/work units, commercial floor area, parking) could change and may have implications on the final by-law.

Bonusing

The City of Barrie Official Plan contains policies related to bonusing or the provision of community benefits for developments proposing increases to height and density. The City also implements a community benefits policy including prescribed items for allocation of community benefits.

Bill 108 proposes changes to the manner in which municipalities collect and allocate funds for community benefits, formerly prescribed by Section 37 of the *Planning Act*. In the interim and until a successor to Section 37 is determined, the City will be investigating alternative methods of securing community benefits with the applicant. The allocation of these benefits is typically determined by the approval of an application submitted pursuant to Section 34 of the Planning Act (Zoning By-law Amendment).

Next Steps

The applicant and their consultants are currently in the process of addressing the comments expressed through the public consultation process and the comments provided through the technical review of the application, which may require revisions to the plans and drawings received at the time of original submission. These items include building height and tower distance separation, required parking, and matters related to source water protection.

Planning staff will continue to work closely with the applicant and their consultants on these items and to address any additional issues prior to the preparation of a staff report for consideration by General Committee. That report will include a detailed analysis of the planning and land use matters being considered, including a review of comments received through the public consultation process and technical review of the application.

If you have any questions, please contact the Planning File Manager, Gordon Dickson at 705-739-4220, Extension 4517 or gordon.dickson@barrie.ca.

Appendices:

Appendix 'A'
Appendix 'B'

Appendix 'A'
Location Map



Proposed Zoning By-law Amendment Application

D14-1676

Barrie Waterfront Developments Inc.

39 - 67 Dunlop Street West & 35 - 37 Mary Street

LOCATION MAP



Date: August 16, 2019

File No.: D14-1676

Appendix 'B'
Extension Letter from Applicant



WESTON
CONSULTING

planning + urban design

Planning & Development
City of Barrie
70 Collier Street
Barrie, ON
L4M 4T5

ATTN: Michelle Banfield, Manager of Growth and Development

August 20, 2019
File 9354

Dear Madam,

**Re: Zoning By-law Amendment Application (File No.: D14-1676)
39-67 Dunlop Street West and 35-37 Mary Street
City of Barrie**

Weston Consulting is the authorized planning agent for Barrie Waterfront Development Inc., the registered owner of the lands municipally known as 39-67 Dunlop Street West and 35-37 Mary Street, in the City of Barrie (herein referred to as the "subject lands"). This correspondence has been prepared on behalf of Barrie Waterfront Development Inc. to advise City of Barrie Staff that Barrie Waterfront Developments Inc. will defer exercising its right to appeal a lack of Council decision to the Local Planning Appeal Tribunal regarding the above noted Zoning By-law Amendment application until a date not sooner than November 19th, 2019.

A Zoning By-law Amendment application to facilitate the construction of a high-rise mixed-use development on the subject lands, comprised of two high-rise residential towers, measuring 30 and 34 storeys in height, was submitted to the City of Barrie on April 30th, 2019. The Notice of Complete Application, in accordance with Section 34 (10.3) and (10.4) of the *Planning Act*, was issued on May 14th, 2019. A Neighbourhood Meeting was held on April 23rd, 2019 and the Statutory Public Meeting was held on June 26th, 2019.

Section 34 (11) of the *Planning Act* notes that where Council fails to make a decision regarding a Zoning By-law Amendment application within 150 days of the application being deemed complete, the Applicant may file an appeal to the Local Planning Appeal Tribunal for a lack of Council decision. Based on the above, an appeal may be filed by the Applicant as soon as October 11th, 2019.

Weston Consulting and Barrie Waterfront Developments Inc., have undertaken several meetings with City of Barrie Planning and Engineering Staff to discuss and resolve the comments issued by Staff. Furthermore, we are working with Staff to negotiate the transfer of potentially surplus lands at the north-east corner of the Barrie Transit Terminal and the potential Community Benefit Contribution that will be made by the Applicant for the increased height and density contemplated by the Zoning By-law Amendment.

Based on our discussions during these meetings, it is our understanding that Staff intend to bring a Recommendation Report before Council during the November 18th, 2019 meeting.

As such, we hereby advise that Weston Consulting and/or Barrie Waterfront Developments Inc. will not appeal the lack of Council decision regarding the above noted Zoning By-law Amendment application until a date not sooner than November 19th, 2019. Doing so will provide Staff with the opportunity to resolve any outstanding matters and prepare a Recommendation Report that is anticipated to be presented to Council at the November 18th, 2019 meeting. Should a decision not be made by Council by November 18th, 2019, the Applicant will retain their right to appeal the lack of decision by Council.

It should be noted that this letter is not intended to suggest that an appeal is forthcoming or being contemplated at this time.

We trust that the above is satisfactory. Should you have any questions, please contact the undersigned (ext. 236) or Roman Tsap (ext. 283).

Yours truly,
Weston Consulting
Per:

A handwritten signature in black ink, appearing to read "Kevin Bechard".

Kevin Bechard, BES, M.Sc., RPP
Senior Associate

A handwritten signature in blue ink, appearing to read "Gary Silverberg".

Gary Silverberg, Owner
Barrie Waterfront Developments Inc.