

REPORT TO: Mayor James M. Diodati and Members of Municipal Council

SUBMITTED BY: Planning, Building & Development

SUBJECT: PBD-2018-32 AM-2017-011, Official Plan & Zoning By-law Amendment Application 5471, 5491 and 5507 River Road, 4399, 4407, 4413 and 4427 John Street and Part of River Lane Proposal: Apartment Building Consisting of Two Towers Applicant: 5507 River Development Inc. (Mike Wang) Agents: Italia Gilberti, Broderick and Partners Ryan Guetter, Weston Consulting

RECOMMENDATIONS

- 1. That Council defer the Official Plan and Zoning By-law amendment application to enable the applicant time to modify the project in keeping with the following principles:
 - a. The towers being stepped back in accordance with a 45 degree angular plane measured from the east side of River Road, as detailed in this report;
 - b. A minimum 6 metre exterior side yard building setback being provided from River Road;
 - c. A 3 metre wide landscaped open space strip being provided between John Street and any parking area; and
 - d. Maintenance of the separation distance between the two towers and the setbacks and stepped back form from John and Phillip Streets and the residential properties to the west as shown in the schedules to this report.
- 2. The public meeting be continued once revised drawings implementing the above noted recommendations have been received and reviewed by Staff.

EXECUTIVE SUMMARY

5507 River Development Inc. has requested Official Plan and Zoning By-law amendments to permit the development of a 390 unit apartment building with 21 and 12 storey towers on the lands known as 5471, 5491 and 5507 River Road, 4399, 4407, 4413 and 4427 John Street and the closed part of River Lane. The project cannot be recommended in its current form. To ensure an appropriate transition is provided to the residential neighbourhood to the west and north and the buildings are designed to respect the streetscape to ensure a human scale development that does not overwhelm the pedestrian realm along River Road several modifications are recommended to the proposed building and site design. Provided revised drawings incorporate these modifications, it can be concluded:

- The addition of height and density within the urban area of the City is consistent with Provincial and Regional policies;
- The use of an angled plane from all sides would provide a transition of height and density to the neighbourhood to the west and north and the pedestrian promenade to the east;
- Provided the development is redesigned as recommended, the development is in general conformity with the intent of the Official Plan, will be compatible with adjacent residential areas and will provide a human scale to the development;
- Existing transportation networks and servicing infrastructure can support the development; and
- A Section 37 agreement should be used to secure capital contributions and streetscape improvements.

BACKGROUND

Proposal

5507 River Development Inc. has requested an Official Plan and Zoning By-law amendment for the lands known as 5471, 5491 and 5507 River Road, 4399, 4407, 4413 and 4427 John Street and part of River Lane, totalling 0.79 hectares (2 acres) in area. Refer to Schedule 1 to locate the lands. The applicant is proposing to construct a 390 unit apartment project with 21 storey and 12 storey towers and with underground and structured parking. Schedule 2 shows details of the proposed development. Schedule 3 is a north-south cross-section of the development. Schedule 4 depicts architectural renderings of the project.

The lands are designated Residential in the City's Official Plan. The portion of the lands between River Road and River Lane is subject to a Special Policy Area designation which permits a 119 unit apartment building up to 7 storeys in height. This Special Policy Area and associated zoning was adopted by Council in 2008 and approved by the Ontario Municipal Board in 2009 to permit the aforementioned apartment building. Prior to this amendment, Council approved an Official Plan and Zoning By-law Amendment application for a 27 storey apartment building, however, this application was later abandoned.

The applicant is a new owner and has acquired additional lands including part of River Lane. He is now requesting the whole of the lands be placed under a new Special Policy Area designation to permit the 21 and 12 storey tower development.

The portion of the lands between River Road and part of River Lane is zoned Residential Apartment 5E Density (R5E-840), while a small portion of the land west of River Lane is zoned Parking (P-841), in accordance with Zoning By-law No. 79-200, as amended. The balance of the lands is zoned Residential Single Family and Two Family (R2-2) in accordance with Zoning By-law No. 79-200 as amended. The lands are requested to be rezoned a new Residential Apartment 5F Density zone, with site specific building setbacks, density, building height, landscaped open space, lot coverage and parking regulations, to permit the height and massing of the project.

Site Conditions and Surrounding Land Uses

The subject lands consist of a number of properties that currently contain detached dwelling(s) or are vacant. River Lane is under the applicant's ownership. There are also a number of mature trees on the properties. The site is sloped, rising about 10 metres in elevation from the corner of River Road and John Street to the western boundary.

The properties to the west and north of the lands are used for a mix of low rise detached dwellings, converted dwellings, apartment buildings and bed and breakfasts. A hotel (Michael's Inn) and associated parking is located to the south. The Michael's Inn lands, along with the Niagara Falls Aviary lands, are zoned to permit 60 and 61 storey hotel towers. A pedestrian promenade and the Niagara Gorge are located to the east.

Circulation Comments

Information about the requested Official Plan and Zoning By-law amendments was circulated to City divisions, the Region, agencies, and the public for comments. The following summarizes the comments received to date:

- Regional Municipality of Niagara
 - The proposal satisfies the policy directions of the Region's Official Plan, will make more efficient use of urban services, land and infrastructure, and will provide an alternative form of housing in an area which is composed predominantly of low density forms of housing.
 - A final Stage 1-2 Archeological Assessment and any further necessary archaeological assessments are to be filed, along with an acknowledgement letter from the Ministry of Tourism, Culture and Sport. In addition a Record of Site Condition is to be filed with the Ministry of the Environment and Climate Change. A Holding (H) Provision should be place on the property until the above noted documents are filed.
- Niagara Parks Commission (NPC)
 - No objections to the proposed Official Plan and Zoning By-law amendment. It is recommended that a minimum landscaped setback be provided along River Road, preserving the existing sugar maple and providing enhanced landscaping, and that there are no driveway connections to River Road.
 - Through site plan control building finishes in keeping with the character of River Road north of the lands should be implemented.
 - Additional bat monitoring within the gorge should be conducted prior to construction to ensure bat habitat is not impacted by winter construction.
- Niagara Peninsula Conservation Authority (NPCA)
 - No objections to the applications.

- At the site plan stage a number of measures are to be implemented, including reduction of large glass surfaces to minimize impacts to the bird population, submission or erosion and sediment control plans to demonstrate no off-site migration of sediment, and no clearing of vegetation during bird nesting season (April 1 to July 31).
- Transportation Services
 - No objections to the applications. Revised transportation studies demonstrate existing road infrastructure can support the development and surrounding proposed development. In addition, Transportation Services have no objections to the parking rate reduction.
- Municipal Works
 - No objections. Further review of servicing details will be conducted at the site plan stage.
- Parks Design
 - No objections to the amendments. There should be no tree removal until such time as the site plan process is complete. 5% cash-in-lieu of parkland dedication will be payable.
- Building Services, Fire Services
 - No objections. A review of fire safety and Ontario Building Code matters will be applicable at the site plan and Building Permit stages.
- Legal Services
 - No objections.
- Public Submissions
 - 7 letters have been submitted by members of the public and are included in tonight's agenda. These submissions express concerns the project is too large for the neighbourhood, provides insufficient setbacks from nearby properties, and may adversely impact on the geology of the site and the surrounding streets and infrastructure. Some residents recommend the project be reduced in height to 10-12 storeys, and setbacks of 10 metres for all structures should be provided from adjacent residential properties.

Neighbourhood Open House

A neighbourhood open house was held on September 18, 2017 and was attended by 25 neighbouring residents. Neighbours raised concerns about the height of the building, impacts on the geology of the site and surrounding area, construction methods, traffic impacts on surrounding streets and the potential of units being used as vacation rentals.

The applicant noted that a geotechnical study had been completed and did not note issues with the construction of the building. Blasting would not be used in the excavation of bedrock and a pre-construction survey would be done for adjacent residences. The applicant summarized accesses into the project, noting that there would be no access from River Road or Phillip Street. The applicant also noted that the proposal would be developed as a condominium and that condominium rules would prohibit the units to be rented as vacation rentals.

ANALYSIS

1. **Provincial Policies**

The *Planning Act* requires City planning decisions to comply with Provincial policies. In accordance with the Growth Plan for Greater Golder Horseshoe (GPGGH), a minimum of 40% of all residential development occurring annually is currently to be in the Builtup Area. Cities are to identify strategies to achieve these densities, including identifying intensification areas. Provincial policies also require the protection of natural heritage areas, such as the Niagara Gorge, and appropriate transitions in built form between intensification areas and adjacent land uses.

The development's conformity to Provincial policies is as follows:

- The land has not been identified in the City's Official Plan as an area where intensification is to be directed. However, as the land is situated adjacent to the Tourist Commercial area and is in close proximity to provincial highways, arterial roads and transit routes, the land is located in an area that warrants consideration of intensification. Furthermore a portion of the land is currently designated and rezoned for high density residential redevelopment;
- The City has not been meeting intensification targets, achieving only 31% of residential development in the Built-up Area. As this property is within the Builtup Area, its development for high density residential purposes may provide a further opportunity to meet these targets;
- The applicant has submitted an environmental impact statement, to the satisfaction of the NPCA and NPC, that demonstrates the natural area within Niagara Gorge will not be adversely impacted; and
- To ensure appropriate transition in built form to the surrounding residential neighbourhood is achieved several changes to the building and site are recommended. If these modifications are achieved, Staff are satisfied the development conforms to Provincial policies.

2. **Regional Policies**

The lands are designated Urban Area under the Regional Official Plan. The Regional Official Plan promotes higher density development within urban areas and supports growth that contributes to the overall goal of providing a sufficient supply of housing that is affordable, accessible and suitable for the needs of a variety of households and income groups. The proposal will make more efficient use of land and existing

infrastructure and will introduce an alternative form of housing at the edge of a neighbourhood with predominantly low density housing. Therefore the proposal is considered in keeping with the general direction of Regional polices.

2. Official Plan

The lands are designated Residential in the City's Official Plan. A portion of the lands, between River Road and the former River Lane, are subject to a Special Policy Area designation which permits the development of a 7 storey apartment building at a maximum density of 238 units per hectare, equivalent to 119 units. The lands were designated Tourist Commercial prior to these policies being implemented in 2008.

The balance of the lands are individual lots fronting onto local streets that can be developed with low density forms of housing, up to 40 units per hectare.

The applicant has requested a new Special Policy Area designation be placed on the property to permit the proposed development, with two towers having heights of 21 and 12 storeys and a maximum density of 494 units per hectare.

Given that the lands to the south of the subject lands are zoned for the development of 60 and 61 hotel towers and the subject site already enjoys a higher density than the surrounding lands, consideration of additional height and density may be warranted.

Official Plan amendments are reviewed having regard to the intent and purpose of the policies in the Official Plan. The following assessment has been conducted:

a. Conformity of the proposal relative to gradation of height, density and intensification objectives.

The Residential policies of the Official Plan seek to achieve an appropriate gradation in building heights and densities with sufficient horizontal distances between taller buildings and low rise dwellings to ensure a complementary arrangement between residential uses of varying intensities.

A common urban design practice to achieve a compatibility between high rise development and adjacent low rise residential development is to apply a 45 degree angular plane taken from the property line of the nearest low rise residential property and the top of the high rise building. This angular plane reduces the impact of the height and mass of the tall building on adjacent, sensitive low rise dwellings and minimizes shadowing impacts. The City's Official Plan uses this principle in its Lundy's Lane and McLeod Road intensification corridors. In addition, this principle has been included in the Regional Municipal of Niagara Model Urban Design Guidelines (NDUG). The Regional Guidelines also seeks to protect the human scale on streets and sidewalks by requiring a similar angular plane be established from eye level on the sidewalk on the opposite side of the street from the high rise building.

Although the applicant's Planning Consultant cites the NDUG standards and used them to establish a stepped back form from residential properties to the west and from Philip Street, the same angular plane was not used from the east side along River Road. Staff applied the 45 degree angled plane to the building cross-sections provided by the applicant. These lines are depicted in red on the following illustrations:





The intersection of the 45 degree angular plane from the property line of the nearest residential properties with the angular plane from the east side of River

Road provides the maximum height the two proposed towers should be allowed to achieve. Following this principle the south tower would reach a height somewhere in the 10 to 17 storey range while the north tower could achieve a height between 6 and 10 storeys. The stepping down in height along Phillip Street provides a better transition to the low rise built form that prevails on the River Road neighbourhood.

The resulting stepped back form of the building should have the effect of reducing the perception of height for persons on the abutting properties and sidewalks. In addition shadowing impacts on the adjacent properties would be further minimized. The shadowing analysis submitted by the applicant shows no impacts on adjacent residential properties after 10:20 AM. The shadowing analysis indicates shadowing impacts the Niagara Gorge would occur from 2:20 PM to the end of the day. The reduction in height will have a corresponding lessening of the extent of shadowing into the gorge.

The density of the proposed towers project is more than twice as much as the current density allowed on the east part of the site. However a lessening in the height and mass of the building as recommended above should result in fewer units and a corresponding lessening in density.

Through the Official Plan, intensification has been directed to areas in or adjacent to Major or Minor Commercial designated nodes and corridors (Downtown, Morrison Dorchester, Five Corners, McLeod Road, Lundy's Lane) These areas were targeted through the 2012 Growth Plan compliance exercise in order to encourage residential development to bolster commercial areas experiencing high vacancy rates. This does not preclude Council from considering other areas through site specific applications. The site abuts Tourist Commercial designated lands and is within easy walking distance to businesses in the Central Tourist Core, which could benefit from residential development during the off-peak season. In addition, the intensity of the proposed development on the Aviary/Michael's Inn sites to the south warrant consideration of additional intensification of the site.

Planning staff also recommend the following changes to the project:

- That the north tower be set back 6 metres from River Road, to respect the front yard setbacks of the dwellings to the north. The current design, with the north tower projecting in front of the south tower as well as dwellings to the north, does not provide an appropriate transition from tourist development to the south to the low rise residential development to the north.
- That a 3 metre landscaped open space strip be provided between John Street and any parking area. The current design provides no landscaping along John Street, which is out of character with the landscaped front yards of dwellings along John Street.

Planning staff recommend that the application be deferred until the revised drawings, incorporating these modifications, are submitted to the City. This is to

ensure the modifications do not affect other elements meant to achieve compatibility with the surrounding neighbourhood including the setbacks and stepped back form from John Street and Phillip Street, and the separation distance proposed between the towers, are maintained.

b. The availability of adequate municipal services and facilities for the proposed use and its impact on the transportation system, community facilities and natural environment.

The applicant has submitted a Transportation Impact Study which demonstrates surrounding roads can accommodate the traffic generated by the development. The vast majority of the traffic is expected to use Highway 420, Bender Street/Victoria Street and River Road south of the site, not infiltrating into the surrounding residential neighbourhood.

The applicant has also submitted a Functional Servicing Study which identifies servicing capacity for the development. Neither the Region nor the Niagara Parks Commission (NPC)) expressed concerns with these studies.

The applicant has also submitted an Environmental Impact Study which satisfies the interests the Niagara Peninsula Conservation Authority (NPCA) and the NPC.

c. Section 37 Payments related to the proposed development

The Official Plan contains policies whereby, in exchange for additional height and density, payments can be made toward municipal capital facilities. Council must first be satisfied that the proposed development is compatible with the scale and character of the surrounding neighbourhood, does not constitute an undue concentration of density, there is adequate infrastructure to support the proposed development, the transportation system can support the increased density and the size and configuration of the site can accommodate parking and landscaping.

Any approval of additional height and density development beyond what the current Official Plan permits is recommended to be subject to a bonusing agreement under Section 37 of the *Planning Act*.

The portion of the site between River Road and River lane was already subject to a Section 37 agreement that was executed when the current amending bylaw was passed. This agreement secured a capital contribution based on the construction cost for the floor area of the 56 units that were determined to be beyond what the Official Plan permitted at the time. The applicant negotiated a contribution based 1% of the construction cost of these units, which amounted to a \$41,688 capital contribution. The funds were paid to the City and put toward the Olympic Torch Legacy Trail.

Under the current Official Plan policies, it is estimated that the lands would support 127 residential units (119 units in the Special Policy Area between River Road and River lane plus 2 units on each of the 4 residential lots that front onto John Street). Using the 2017 Altus Cost Guide construction costs to construct

263 units beyond current Official Plan densities is estimated to be \$36,444,240. By applying the 1% value to the construction costs, minus the \$41,688 capital contribution previously made, would equate to a capital facility payment of \$322,754. This figure will likely need to be adjusted downward if Council accepts the lower height and density recommendations

The following Capital facility projects have been identified:

- A pedestrian bridge over Highway 420 to extend the Olympic Torch Legacy Trail to the tourist core;
- Market Cultural Hub project;
- Centennial Square redevelopment.

4. **Zoning By-law**

The applicant is requesting a site specific Residential Apartment 5F Density (R5F) zone to permit the proposed development. The departures requested from the standard R5F regulations are summarized in the following table:

ZONE REGULATION	STANDARD R5F REGULATION	REQUESTED REGULATION
Minimum lot area	57 sq. m per unit	20 sq. m. per unit
Minimum lot frontage	45 metres	39 metres (Phillip St)
Minimum front yard depth	7.5 m	3.5 m (John St) 2.7 m (Phillip St)
Minimum interior side yard width	One quarter building height	2.8 m
Minimum exterior side yard width	7.5 m	2.2 m
Maximum lot coverage	30%	50%
Minimum landscaped open space	55% of lot area	30% of lot area
Maximum building height	28 m	73 m as measured from the intersection of River Rd and John St
Parking requirements	1.4 spaces/unit	1.28 spaces/unit
Balcony projections	1.8 m along John & Phillip Sts 0.45 m along River Rd	3 m
Porch projections	2.5 m along John & Phillip Sts 0 m along River Rd	3 m

The redesign of the proposal in accordance with the recommended principles may have an impact on requested changes. The stepped form from the west and north and the separation of the two towers by 25 metres should be incorporated into the redesign. Staff should report back on changes to the standard regulations once the proposal is redesigned at a lower height and density.

5. Holding (H) Provisions

In accordance with Provincial policies, the Region has requested a holding (H) regulation be placed in the amending by-law until the applicant has completed the filing of archaeological assessments and a Record of Site Condition with the Province. Should these documents be filed to the satisfaction of the Region prior to passing of the amending by-law, the holding (H) regulation will no longer be necessary.

6. Ontario Municipal Board (OMB) Appeal

The applicant has the right to appeal the application after 180 days of submission of a complete application. As the application was submitted last July, the applicant appealed the failure of the City to adopt the requested amendments in order that the application would be heard under the rules of an OMB hearing. The decision of Council would be forwarded to the Board to be incorporated into a consolidated hearing with the original appeal.

FINANCIAL IMPLICATIONS

In addition to Section 37 contributions, the proposed development will provide development charges, cash-in-lieu of parkland dedication and new tax assessment for the City.

CITY'S STRATEGIC COMMITMENT

This proposal does not directly impact on any of the City's strategic commitments.

LIST OF ATTACHMENTS

- Schedule 1 Location Map
- Schedule 2 Site Plan
- Schedule 3 South to North Cross Section
- Schedule 4 Architectural Renderings

Recommended by:

Alex Herlovitch, Director of Planning, Building & Development

Respectfully submitted:

Ken Todd, Chief Administrative Officer

A.Bryce:mb Attach.

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SCHEDULE 1

Official Plan and Zoning By-law Amendment 5471, 5491 and 5507 River Road, 4399, 4407, 4413 and 4427 John

Applicant - 5507 River Development Inc. Agent - Ryan Guetter, Weston Consulting



PBD-2018-32 June 19, 2018



SCHEDULE 2

PBD-2018-32 June 19, 2018





PBD-2018-32 June 19, 2018



SCHEDULE 4

2 NORTH ELEVATION





(3) SOUTH ELEVATION

