TO: Chair and Members  
Economic Development and Planning Committee  
WARD(S) AFFECTED: WARD 13

COMMITTEE DATE: March 23, 2010

SUBJECT/REPORT NO:  
Applications for Approval of an Official Plan Amendment and Change in Zoning for Lands Located at 56 Governor's Road (Dundas) (PED09252(b)) (Ward 13)

SUBMITTED BY:  
Tim McCabe  
General Manager  
Planning and Economic Development Department

PREPARED BY:  
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SIGNATURE:

Committee Direction:

On a Motion (Pearson/Whitehead), the Economic Development and Planning Committee, at its meeting of March 2, 2010, deferred the matter to the meeting of March 23, 2010, and directed staff to report back at that meeting on the following items:

• Issue of zero setbacks for the building nearest Ogilvie and Governor's Road, and how this accords with the Dundas By-law.

• To clarify Official Plan compliance.

• Previous assurance by St. Joseph’s that the orchard would never be built on.

• Previous assurance by St. Joseph’s that planned future development on-site would be institutional in nature, and in townhouse form.

• Issue of severance line through the property, and how parking, the underground parking, and services appear to cross this line.

• How existing underground servicing will be affected/handled in the new development.
Information:

The following issues were raised by members of the public at a Public Meeting held on March 2, 2010. Staff was directed to respond, in writing, to the following items and return the matter to Committee on March 23, 2010.

Item 1:

Concerns were raised over the location of the mixed-use building (Building B) at the corner of Ogilvie and Governor's Road. In particular, the absence of a visibility triangle and landscaping as a result of the proposed zero lot line setbacks was a concern raised at the Public Meeting.

Staff notes that the location of the proposed new building adjacent to the street line is in accordance with urban design objectives to have buildings orientated to the street, with parking provided to the rear. This objective creates a greater sense of place with respect to the overall street scene and visual interest, as well as providing more interaction with regard to other existing buildings within the area. Furthermore, as detailed in the Council approved Site Plan Guidelines, ‘Building placement near the street creates a sense of enclosure, reduces the apparent width of the street to a more human scale, and minimizes walking distance between the public sidewalk and buildings’.

On the matter of traffic safety, the application was reviewed and supported, in principle, by staff from the City’s Traffic Department. It should also be noted that the building is recommended to be placed under a Holding provision which, in part, would require the submission of a traffic report justifying the location and impact of the building, and the incorporation of any necessary improvements that would be required either through the said study or the Class “C” Transportation Environmental Assessment currently under way. Furthermore, the proposed building is subject to site plan control, at which time matters such as vehicular access and sight lines would be further reviewed. Staff is, therefore, satisfied that any visibility or public safety issues will be addressed prior to any development taking place.

Item 2:

A number of residents sought clarification on the recommendation in the report that spoke to an amendment necessary to the new Urban Hamilton Official Plan. As discussed in the report to Committee, the new Urban Hamilton Official Plan designates the subject lands as “Institutional”. Although this designation permits low density
residential development as-of-right, and multiple dwellings (to a maximum of 6 storeys and 100 uph) that are ancillary to an institutional use as-of-right, the policy regime did not contemplate development at the density proposed in the subject applications. Consequently, although not yet in full force and effect, staff is required to inform the Ministry of Municipal Affairs and Housing (MMAH) of any changes that may be necessary to the document prior to their approval. Therefore, staff has suggested in Recommendation (c) of the report to Committee that this designation be modified to clarify that the development, as proposed, is permitted.

It should be noted that upon approval of the new Urban Hamilton Official Plan by the MMAH, an opportunity for input, including appeal rights, would be available for members of the public prior to the document coming into full force and effect.

Items 3 and 4:

Several residents referred to agreements/assurances provided to them that the owners of the site would neither develop the lands to the rear of the site, referred to as the “Orchard”, nor develop anything more intensive than townhouses. In terms of the Planning Act, there are no restrictions preventing owners submitting applications to rezone and develop their lands. Furthermore, staff is not aware of any assurances, either written or legally binding, that would preclude the owners proceeding with the development, as proposed, subject to the approvals of the planning applications currently before the Economic Development and Planning Committee.

Issue 5:

At the meeting, concern was raised over the new concept plan encroaching into a new portion of the site that was previously severed and not part of the current application to re-designate and rezone the lands.

The creation of the two parcels was approved through Severance Application DN/03:235, approved by the Committee of Adjustment on February 2, 2005. Following approval, a further certificate, indicating all requisite conditions had been satisfied, was issued on February 2, 2006. The lands to be severed correspond with the lands currently being considered for re-designation and rezoning. Consequently, the revised concept plan indicates that development of the parking areas and access road required to facilitate the proposed development would be provided, in part, on the adjacent parcel not currently considered for rezoning or re-designation. As a result of this revision, concern was raised over the potential conflict with the existing underground services and the application of the proposed By-law.

Phased development, or development that has shared services, is permitted provided that any necessary easements and rights-of-way are implemented in addition to the City permits shared-use agreements. The Development Engineering Section has, therefore,
commented on the underground services, and do not consider the development to pose a significant issue with regard to the maintenance and continued operation of these services. Staff, however, confirms that should the development proceed as proposed in the latest concept plan, services shall have to be relocated, and new easements established and existing easements extinguished. All costs required for this shall be borne by the developer, and shall ultimately ensure that access to the City's sub trunk sanitary sewer easement is maintained.

With respect to the recommended By-law, the City's Building Engineering and Zoning Section confirms that parking or access ways must be provided within the same zone as the permitted uses, or in a zone that permits the development. As the adjacent portion of the St. Joes Villa's lands would not permit the proposed uses, the applicant shall either have to demonstrate that the parking and access ways can be accommodated within the boundaries of the proposed zone, or will have to modify the zoning request such that the boundaries of the proposed zone are extended to accommodate the facilities. In this regard, the applicant's agent has advised that they request to have the proposed zoning boundary extended to accommodate these facilities. This will require a revision to Schedule “A” of both the Draft Official Plan Amendment and Zoning By-law (see Appendix “A”).

Conclusion

Based on the two reports presented to Council, and the subsequent information detailed above, staff continues to support the development of the lands as proposed.

: EJ/JT
Attach. (1)
Appendix “A” to Report PED09252(b) (Page 2 of 2)

Schedule "A"

Map Forming Part of By-Law No. 10-

to Amend By-law No. 3581-86

Subject Property
56 Governor's Road, Dundas

- BLOCK 1 - Change in Zoning from Public and Private Service (PPS/S-90) Zone to the High Density Multiple Dwelling (H-RM4) Holding Zone, Modified

- BLOCK 2 - Change in Zoning from Public and Private Service (PPS/S-90) and (PPS-FP) Zones to High Density Multiple Dwelling (H-RM4)/S-620 Zone and Open Space - Conservation (OS) Zone to the High Density Multiple Dwelling (H-RM4) Holding Zone, Modified

- BLOCK 3 - Refer to By-law No. 05-200

This Schedule "A" to By-law No. 10-
Passed the ........... day of ............... 2010

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Clerk

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Mayor