



Hamilton

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 1
COMMITTEE DATE: April 17, 2012	
SUBJECT/REPORT NO: Applications for Approval of an Official Plan Amendment and an Amendment to Hamilton Zoning By-law No. 6593 for Lands Known as 17 Ewen Road (Hamilton) (PED09103(b)) (Ward 1)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Edward John (905) 546-2424, Ext. 5803
SIGNATURE:	

RECOMMENDATION:

That approval be given to Report PED09103, subject to the following changes:

- (a) That Recommendation (b) (ii) of Report PED09103 be deleted in its entirety and replaced with the following:

“(ii) That the amending By-law apply the Holding provisions of Section 36(1) of the Planning Act, R.S.O. 1990 to the subject lands by introducing the Holding symbol ‘H’ as a suffix to the proposed Zoning District. The Holding provision will prohibit the development of the subject lands until such time as a Record of Site Condition (RSC), and approved Site Plan implementing the recommendations of the approved Noise Study, have been submitted, to the satisfaction of the City of Hamilton’s Director of Planning, including an acknowledgement of receipt of the RSC by the Ministry of Environment (MOE).”

SUBJECT: Applications for Approval of an Official Plan Amendment and an Amendment to Hamilton Zoning By-law No. 6593 for Lands Known as 17 Ewen Road (Hamilton) (PED09103(b)) (Ward 1) - Page 2 of 6

(b) That Section 3.b) of the Draft By-law, contained in Appendix “C” to Report PED09103, be deleted in its entirety and replaced with the following:

“b) That the owner shall implement the approved noise control measures through an approved Site Plan application that is satisfactory to the City of Hamilton in meeting the Ministry of the Environment’s recommended sound level limits, to the satisfaction of the City of Hamilton, Director of Planning.”

Committee Direction and Background:

Following a Public Meeting held to discuss the merits of a proposed Official Plan Amendment and change in zoning to permit the development of the lands for a 10-storey multiple residential building intended to be used for the purposes of student accommodation (see Appendix “B”), the Economic Development and Planning Committee, on April 21, 2009, deferred consideration of the Report pending the completion of a Noise Study, and recommended that the applicants, Auburn Developments and Cadbury Adams (now officially KRAFT Canada), meet and discuss the proposal.

On June 15, 2010, the item returned to the Economic and Development Committee in the form of an Information Report (Report PED09103(a) - see Appendix “C”). The Report outlined the work that had been completed by the applicant with respect to the initial direction from Committee regarding the noise issues.

Staff, through the analysis contained within the Information Report, concluded that in the absence of a complete and comprehensive Noise Study, they would continue to support the application, but maintain the recommendation for a Holding provision in order to ensure the said Study is conducted and completed, to the satisfaction of the City of Hamilton (see Appendix “C”).

Committee deferred the Report to the July 5, 2010, Committee meeting to allow time to digest all the additional information received from Cadbury (now officially KRAFT Canada) and the residents, to allow the Ward Councillor to meet with Auburn and with Cadbury (now officially KRAFT Canada), and to get staff’s opinion on purpose built student housing and its dynamics.

Prior to the Item returning to the July 5, 2010, Committee, the applicant requested the Item be deferred indefinitely, until further notice, in order that they may address more comprehensively, the issue of noise. This second Information Report subsequently highlights the additional work completed to date, and the resultant position of staff.

SUBJECT: Applications for Approval of an Official Plan Amendment and an Amendment to Hamilton Zoning By-law No. 6593 for Lands Known as 17 Ewen Road (Hamilton) (PED09103(b)) (Ward 1) - Page 3 of 6

With regard to the dynamics of purpose built student housing, discussions with the Ward Councillor took place, and identified the varied, yet limited, amount of empirical evidence on purpose built student housing.

Information:

The subject lands comprise approximately 0.42 hectares (1.06 acres) within the Urban Area. The site is located in the block contained by Main Street West to the north, Rifle Range Road to the east, Ewen Road to the west, and Whitney Avenue to the south, with frontage directly along Ewen Road and Rifle Range Road, as shown on Appendix "A" to this Report. Notable surrounding uses include the former CNIB building (redeveloped to a 9-storey building for the purpose of student accommodation), the Cadbury Candy Factory (now officially KRAFT Canada) located immediately south of the subject property, and Fortinos located to the East.

The site currently maintains an industrial designation in the Hamilton Official Plan, the Ainslie Wood Secondary Plan, and the Hamilton Zoning By-law. The site was formally used as a warehouse facility, and remains occupied by two buildings which are proposed to be demolished in order to permit the proposed residential development.

The application would result in the conversion of the lands from their "Industrial" designation. This has been assessed through the City initiated Municipal Comprehensive Review, adopted by Council on June 25, 2008 (Report 08-022) and, as such, staff is satisfied that the conversion from this designation is appropriate. This is reflected in the New Urban Hamilton Official Plan, which has designated the property "High Density Residential 1" **Special Policy Area "C"**. The designation would support the location of a 10-storey residential building, with residential densities ranging between 300-375 units per hectare.

It is noted that the Urban Hamilton Official Plan received Ministerial Approval from the Ministry of Municipal Affairs and Housing on March 16, 2011, and, therefore, can no longer be modified.

However, the Urban Hamilton Official Plan has been appealed. As such, Council approved Official Plan Amendments made prior to the final decision will be held in abeyance until their incorporation into the Plan can be requested of the Ontario Municipal Board (OMB), or through a future housekeeping amendment.

The current proposal would consist of a 10-storey, purpose built student apartment building, providing approximately 150 units. The subject lands have frontage on both Rifle Range Road and Ewen Road, with access to the building provided from Rifle Range Road. A total of 195 parking spaces will be provided in two levels of underground parking (166 spaces) and surface parking (29 spaces). No access to the site is proposed from Ewen Road.

SUBJECT: Applications for Approval of an Official Plan Amendment and an Amendment to Hamilton Zoning By-law No. 6593 for Lands Known as 17 Ewen Road (Hamilton) (PED09103(b)) (Ward 1) - Page 4 of 6

Staff supported the proposed applications on the basis of a Holding provision that would ensure both a comprehensive Noise Study and Record of Site Condition be completed. At the Economic Development and Planning Committee meeting of April 21, 2009, and based on the information presented by the adjacent landowners, Committee members, however, considered it prudent to have the information regarding noise prior to granting any approvals. Consequently, the item was deferred in order for this Study to be conducted, with particular emphasis on the 'reflection' of noise emitted by the Cadbury Plant.

The applicant provided additional analysis (see Appendix "C") that was reviewed in the Information Report submitted to the Economic and Development Planning Committee on June 15, 2010. Within this Report, staff concluded that further revisions/analysis was required in order to more satisfactorily deal with the issue of noise.

Since that time, staff has received and peer reviewed two subsequent Noise Studies/Addendums.

- Novus Environmental - Environmental Noise Assessment, January 24, 2011 (see Appendix "D").
- Peer Reviewed by JADE Acoustics May 2, 2011 (see Appendix "E").
- Novus Environmental - Response to Peer Review Comments, September 23, 2011 (see Appendix "F").
- Peer Reviewed by JADE Acoustics October 24, 2011 (see Appendix "G").

The Environmental Noise Assessment, prepared by Novus Environmental (January 24, 2011 - see Appendix "D"), provided an assessment of the stationary noise impacts within the study area. Based on their measurements and noise predictions, applicable NPC-205 Guidelines were determined to be exceeded at existing noise sensitive receptors (a place of worship and residences) in the study area.

The Report indicates that based upon Publication LU-131, NPC-205 Guidelines may be exceeded at the proposed development. Given the excesses at existing receptors, the Report determined that it is not feasible to outline a source-based noise mitigation plan to reduce noise from Cadbury sources. Therefore, the Report concluded that in accordance with the provisions of LU-131, receptor-based noise mitigation, in the form of air-conditioning and sealed windows, be recommended.

SUBJECT: Applications for Approval of an Official Plan Amendment and an Amendment to Hamilton Zoning By-law No. 6593 for Lands Known as 17 Ewen Road (Hamilton) (PED09103(b)) (Ward 1) - Page 5 of 6

Finally, the Report stated that given the existing conditions, including the presence of surrounding existing residential land uses, the conversion of the subject property to residential should not affect Cadbury's ability to obtain or maintain their Certificates of Approval. The Report also concluded that the requirements of the City of Hamilton Noise Bylaw will be met, and similarly, the requirements of MOE Guidelines D-1 and D-6 will be met.

The initial Peer Review, conducted by JADE Acoustics May 2, 2011 (see Appendix "E"), on behalf of the City of Hamilton, identified a number of issues with the above Environmental Noise Assessment, prepared by Novus Environmental (January 24, 2011), and the subsequent conclusions drawn. These issues revolved predominately around the application of the MOE Guidelines, the need for additional investigation regarding 'acoustical impacts', and the use of sealed windows as a mitigation method.

In response to the issues identified by JADE Acoustics, Novus Environmental prepared a formal response (Response to Peer Review Comments, September 23, 2011) and provided additional information (see Appendix "F"). The Report outlined and responded to a number of areas of concern raised by the JADE Acoustics Peer Review, defending both the numerical assessment of impacts as well as defending the application of Guidelines. The Report concluded that the use of an Enclosed Noise Buffer (ENB) balcony (as opposed to sealed windows, as stated in the original report) would also adequately control noise impacts at the proposed residences, and would ensure that the noise level limits would be met at the affected noise-sensitive windows.

Following review of the second submission, prepared by Novus Environmental (September 23, 2011 - see Appendix "F"), JADE Acoustics provided written confirmation (October 24, 2011 - see Appendix "G") that the provision of Enclosed Noise Buffer (ENB) balconies, as suggested by Novus Environmental, would be wholly satisfactory in addressing their previous stated concerns.

Based on the above, staff is satisfied that sufficient study has been conducted and adequate mitigation options determined through the information submitted to date. Staff acknowledges that the original staff Recommendation in Report PED09103 consisted of a Holding provision for both a Record of Site Condition and Noise Study. It is, therefore, staff's position that the Recommendation be modified in order to recognize the above work and to secure the recommended design solutions within an approved Site Plan.

Conclusion

That the wording of the Holding provision, as detailed below, be modified to ensure the implementation of the design aspects of the approved Study.

SUBJECT: Applications for Approval of an Official Plan Amendment and an Amendment to Hamilton Zoning By-law No. 6593 for Lands Known as 17 Ewen Road (Hamilton) (PED09103(b)) (Ward 1) - Page 6 of 6

That Section (b) ii) of the original Recommendation within Report PED09103 be deleted and replaced with the following:

“That the amending By-law apply the Holding provisions of Section 36(1) of the Planning Act, R.S.O. 1990 to the subject lands by introducing the Holding symbol ‘H’ as a suffix to the proposed Zoning District. The Holding provision will prohibit the development of the subject lands until such time as a Record of Site Condition (RSC), and approved site plan implementing the recommendations of the approved Noise Study, have been submitted, to the satisfaction of the City of Hamilton’s Director of Planning, including an acknowledgement of receipt of the RSC by the Ministry of Environment (MOE).”

And further, that Section 3(b) of the Draft By-law contained in Appendix “C” of Report PED09103, be deleted and replaced with the following:

“That the owner shall implement the approved noise control measures through an approved Site Plan application that is satisfactory to the City of Hamilton in meeting the Ministry of the Environment’s recommended sound level limits, to the satisfaction of the City of Hamilton, Director of Planning.”

APPENDICES / SCHEDULES

- Appendix “A”: Location Plan
- Appendix “B”: Staff Report
- Appendix “C”: Information Report and Supplementary Noise Information
- Appendix “D”: Novus Environmental - Environmental Noise Assessment (January 24, 2011)
- Appendix “E”: Peer Reviewed by JADE Acoustics (May 2, 2011)
- Appendix “F”: Novus Environmental - Response to Peer Review Comments (September 23, 2011)
- Appendix “G” Peer Reviewed by JADE Acoustics (October 24, 2011)

:EJ

Attachs. (7)