

THE MUNICIPALITY OF LAMBTON SHORES

Report PL 29-2022

Council Meeting Date: October 18, 2022

TO: Mayor Weber and Members of Council

FROM: Will Nywening, Senior Planner

RE: Deferred ZBA Application ZO-12/2022 - SPA Application SP-04/2022
Plan 24, Lots 382 and 393, 63 Main Street, Grand Bend
2783822 Ontario Inc. (Agent: Zelinka Priamo Ltd c/o Katelyn Crowley)

RECOMMENDATION:

THAT Report PL 29-2022, relating to Council resolution 22-0809-10 and Zoning By-Law Amendment and Site Plan Applications, submitted by 2783822 Ontario Inc. respecting 63 Main St, Grand Bend, be received;

THAT By-Law 76 of 2022 being a by-law to authorize the collection of cash-in-lieu of parkland dedication, in the amount of \$41,000, for the redevelopment of 63 Main St, Grand Bend, be approved;

THAT By-Law 75 of 2022 being a by-law to authorize the execution of a site plan agreement between the Corporation of the Municipality of Lambton Shores and 2783822 Ontario Inc. be approved; and

THAT By-Law 74 of 2022, an amendment to Zoning By-Law 1 of 2003 respecting 63 Main St, Grand Bend, be approved.

SUMMARY

This report relates to the Zoning Amendment and Site Plan Approval Applications submitted by 2783822 Ontario Inc. affecting the lands known as 63 Main St, Grand Bend. The applicant seeks to amend Zoning By-Law 1 of 2003 by changing the existing "Commercial-10 (C10) Zone" to create site specific rear yard, exterior side yard, building height, and parking provisions. The applicant also seeks to enter into a site plan agreement with the Municipality. In this respect, the applicant proposes to construct a 3-storey, mixed use (commercial and residential) building with a 0m rear yard, a 0m exterior side yard, 12.5m maximum permitted height, and 19 parking spaces.

BACKGROUND

The statutory public meeting was held at the August 9, 2022 Council meeting, at which Council passed the following resolution:

22-0809-10

THAT Report PL 25-2022, relating to a Zoning By-Law Amendment Application and Site Plan Application, submitted by 2783822 Ontario Inc. be received;

THAT Zoning By-Law Amendment Application ZO-08/2022 [sic] submitted by 2783822 Ontario Inc. requesting an amendment to Zoning By-Law 1 of 2003 to rezone 63 Main St, Grand Bend, respecting rear yard setback, exterior side yard setback, building height, and parking requirements, be approved in principle, subject to the execution of a site plan agreement; and

THAT staff be instructed to prepare an implementing by-law and site plan agreement for approval consistent with the recommendations of Report PL 25-2022.

Staff Report PL 25-2022 is attached for Council's reference.

DISCUSSION

Council approved the requested rezoning in principle, subject the execution of the site plan agreement. The applicant has updated their civil drawings as requested by Staff. Draft of by-laws to implement the proposed zoning amendment, to collect cash-in-lieu of parkland dedication, and to authorize the execution of an agreement and the draft site plan agreement itself are included in the by-laws section of Council's agenda. The applicant has indicated their consent to the zoning amending by-law and agreement as drafted.

Zoning: As outlined in Report PL 25-2022, the draft zoning by-law amendment would change the subject lands from the existing C10 Zone to a new Commercial 10 Exception 2 (C10-2) Zone and establish a new C10-2 Zone with the following special provisions:

- i) *The minimum Exterior Side Yard Setback shall be 0m;*
- ii) *The minimum Rear Yard Setback shall be 0m;*
- iii) *The following items shall be subject to a maximum Building Height of 12.5m: shade pergolas; railings; a structure housing stairwells, elevators, mechanical rooms and related lobby area; mechanical equipment; architectural arches; and a glass-sided roof over a corridor. The Main Building and all other features shall be subject to a maximum Building Height of 10m and to Section 3.16; and*
- iv) *In all other respects the Permitted Uses and regulations applicable to the C10 Zone shall apply to the C10-2 Zone Exception.*

Provision iii) lists the features that are permitted above the C10 Zone's 10m maximum height as opposed to granting a blanket 12.5m maximum permitted height. The main building and all other features are subject to the same height restrictions currently apply. A reduction in parking space requirements is not included in the special provisions as the payment of cash-in-lieu is deemed to fulfill the deficit in the number of parking spaces provided. This assumes use of the commercial space for retail use. Any change in use requiring a greater rate of parking requirements would be subject to providing additional parking spaces and/or Council's further approval.

Site Plan Agreement: The site plan agreement, as drafted, reflects the Municipality's standard site plan agreement, the provisions normally applied to developments in Grand Bend, and the recommendations of Report PL 25-2022.

As sanitary capacity does not currently exist for this development, Section 4 a) and b) of the draft agreement place the development in "queue" for prioritization of sanitary capacity allocation and make commencement of development conditional upon obtaining allocation:

(a) *The Owner hereby acknowledges that:*

1. *The Municipality does not currently have sanitary capacity available to allocate to meet the demands of the proposed development as estimated in the Site Servicing Design Brief, prepared by Ben Hyland of Strik, Baldinelli, Moniz Ltd., dated May 18, 2022 and revised August 18, 2022; and*
2. *No building permits will be issued for development of the subject lands as proposed by this agreement until the Municipality has allocated the required sanitary capacity to the property.*

(b) *The Municipality hereby agrees to allocate sanitary capacity to the development if the Municipality is successful in receiving an amendment to its Environmental Compliance Approval for additional sanitary capacity in an amount equal to or greater than the projected needs of the development.*

The agreement also requires that the applicant register the agreement on title promptly in order to get in the "queue" for sanitary capacity allocation (Section 11 b). Normally, the Municipality permits 2 years to complete a project from the time the agreement is executed. Because of the need to wait for sanitary capacity allocation, the agreement allows 2 years from the time capacity is allocated to a maximum of 4 years from the date of execution (Section 6).

Section 8 d) of the draft agreement authorizes a payment of cash-in-lieu to satisfy a deficit in the number of parking spaces required:

Prior to the issuance of any building permit, the Owner shall pay to the Municipality a cash-in-lieu of parking payment of \$78,000.00. This fee is being paid in lieu of 6 parking spaces which are not provided for in the redevelopment of the "Lands". The "Lands" are being developed with new retail areas having a floor area of approximately 239m² and 12 new dwelling units. In total the new retail area is required to provide 7 parking spaces and the residential units are required to provide 18 parking spaces. 19 onsite parking spaces are being provided.

Section 8 e) of the draft agreement requires the payment of \$41,000 as cash-in-lieu of parkland dedication. The *Planning Act* permits the collection of 5% of the land or its value, in the case of residential developments and 2% in the case of commercial. As the development is 2 floors residential and 1 floor commercial, the \$41,000 is calculated based on the 5% rate being applied to two thirds of what the applicant paid for the lands and 2% on the remaining third. To collect parkland dedication as a condition of site plan approval, Council must pass a by-law such as the one included in the by-laws section of the agenda.

Other notable provisions of the draft site plan agreement include:

- Provisions restricting use of the more northerly Huron Ave entrance, restricting use to those assigned use of the two parking spaces accessed via that garage entrance (Section 4 c),
- Provisions respecting timing and safety of road and sidewalk closures and hours of construction (Section 4 d) to g)),
- Ensuring hydro distribution line setbacks are met (Section 4 h),
- Provisions respecting emergency contacts, garbage storage, and permitted uses of rooftop amenity areas (Section 4 i) to k) and Section 2 f), and
- Provision requiring that the required special zoning provisions (exterior side yard, rear yard, and height) come into effect (Section 4 l).

Planning Opinion: As previously stated in Report PL 25-2022, it is Staff's opinion that the proposed rezoning is consistent with the Provincial Policy Statement, conforms to the Official Plan, and represents good planning. Staff is satisfied the proposed site plan agreement is consistent with applicable policies and good planning, provided the agreement contains the provisions noted in that report.

Council approved the application in principle via resolution 22-0809-10. In Staff's opinion, the draft by-laws and agreement accurately implement that resolution. Staff has no objection to Council's approval of the implementing by-laws as presented.

ALTERNATIVES TO CONSIDER

None at this time.

RECOMMENDED ACTIONS

That Council:

- authorize collection of cash-in-lieu of parkland dedication;
- authorize execution of the site plan agreement; and
- approve zoning by-law amendment by-law.

FINANCIAL IMPACT

The applicant has paid the Municipality \$2700 in application fees. The site plan agreement would include the payment of \$78,000 in cash-in-lieu of parking, \$41,000 cash-in-lieu of parkland dedication, and various securities for completion of the works and engineering review costs.

CONSULTATION

Katelyn Crowley and Matt Campbell (agents), the applicants, Ben Hyland (applicant's engineer), Dan Acimovic (d a design inc), Beth Cormier (solicitor)
Municipal Staff: Nick Verhoeven, Director of Public Works, Municipality of Lambton Shores

ATTACHMENT 1: LOCATION MAP

