
Subject: Cachet Developments (Orangeville) Inc., Non-decision
Appeal of Applications, OPZ 3-19

Department: Infrastructure Services

Division: Planning

Report #: INS-2021-004

Meeting Date: 2021-01-11

Recommendations

That report INS-2021-004, Cachet Developments (Orangeville) Inc., Non-decision Appeal of Applications, OPZ 3-19, be received;

And that staff and the Town's legal counsel be directed to attend any Local Planning Appeal Tribunal (LPAT) Pre-Hearing and/or Case Management Conference(s) convened for the appeals filed by Transmetro Limited c/o Cachet Developments (Orangeville) Inc. for their applications to amend the Town's Official Plan and Zoning By-law, based on a decision not being made within the timeframes prescribed by the Planning Act;

And that staff and legal counsel report back to Council as necessary, with respect to any update(s) concerning the status of these appeals.

Background and Analysis

1. Site Location and Context

On March 29, 2019, Cachet Developments (Orangeville) Inc. submitted applications on behalf of Transmetro Limited, to amend the Town's Official Plan ("OP") and Zoning By-law. The lands that are subject to these applications consist of two irregularly-shaped parcels situated on opposite sides of Gibson Court, located on the northwest side of Hansen Boulevard, east of Veteran's Way and north of Parkinson Crescent. The subject properties are described as Blocks 94 and 98 of Registered Plan 7M-70, being a broader subdivision plan approved and registered in 2016. The subject lands are presently vacant and have a combined lot area of approximately 3.1 hectares (7.67 acres), with approximately 414 metres of frontage along Hansen Boulevard. A location map of the subject lands is included in Attachment 1.

2. Proposed Development

The Official Plan and Zoning By-law amendment applications were submitted to permit a development proposal featuring four six-storey buildings containing a combined total of 383 apartment dwelling units. Ground-level commercial units with a combined floor area of approximately 2,215 square-metres (23,842 square-feet) would be located within two of the buildings closest to the Gibson Court/Parkinson Crescent and Hansen Boulevard intersection. A total of 594 parking spaces would be provided through a combination of surface parking areas to the rear of the buildings and within one level of underground parking.

The subject lands are designated as “Employment Area”, within the “Veterans’ Way South Community Policy Area” (the “Veteran’s Way Policy Area” or “Policy Area”) in the Town’s OP. Consistent with the OP land use designation, the lands are zoned “General Industrial (M1)” in the Town’s Zoning By-law.

A range of traditional employment uses, industrial uses and limited commercial uses such as restaurants and accessory office and retail uses, are permitted “as-of-right” by the Official Plan and Zoning By-law land use framework for the subject lands. The Veteran’s Way Policy Area contemplates additional limited “commercially-oriented” uses in the Employment Area designations within this policy area, but such uses are subject to certain policy restrictions and may only proceed if enabled through a Zoning By-law amendment approval process. The Policy Area framework also encourages residential uses above any such commercial uses, which would also only be permitted to proceed through the approval of a Zoning By-law amendment application.

The proposed development does not conform to the Official Plan and Zoning By-law framework applicable to the site. Therefore, the Official Plan amendment proposes to add a site-specific policy to permit this specific development proposal. The Zoning By-law amendment application similarly proposes to re-zone the subject lands to include a site-specific Special Provision to permit a range of uses and zone standards reflective of the development proposal.

3. Consultation

Upon the applications being deemed as a complete submission in July 2019, the submission materials were circulated to pertinent internal Town Divisions and external public agencies for review and comment. A public meeting was held on January 27, 2020 and a staff report (Report No. IS-PL-2020-003) was prepared for this meeting to provide more detailed information about the proposed development and applicable planning policy framework, as well as comments received from agencies and Town Divisions. Several residents participated in the public meeting and raised a number of questions and concerns about potential impacts of the proposed development related to: traffic; land use compatibility with respect to increased density and building design; environmental protection; and financial aspects concerning property values and property tax contributions.

The agency and Town division circulation review generated technical comments requiring additional information and/or clarification from the applicant regarding their submission studies. In addition, the Planning Division identified concerns with the applications constituting a re-designation or “conversion” of lands within an employment area to specifically permit non-employment uses. Further information and analysis were requested to address provincial (i.e. Provincial Policy Statement (PPS) and Growth Plan), County and Town Official Plan policies concerning conversions of employment lands to non-employment uses. These policies collectively stipulate requirements for conversions of employment lands (i.e. lands within an employment area) to be considered only through the completion of a municipal comprehensive review (MCR). Provincial policies require that the MCR process be administered by a single/upper-tier municipality. Recent amendments to the Growth Plan and PPS now allow for an employment conversion to be considered in advance of an MCR provided that specific criteria are met with respect to the proposed conversion.

The County of Dufferin is currently undertaking an MCR of its Official Plan to bring it into conformity with recent amendments to the province’s Growth Plan and PPS. The amendments to the Growth Plan particularly include population and employment growth projections for upper and single-tier municipalities to 2051 and requirements for employment areas to be designated in upper/single-tier municipal Official Plans. Currently, the County Official Plan (County OP) does not identify employment areas, as is this requirement was not in place when the County OP was prepared in 2015. Instead, municipal OP’s identify and designate employment areas at the municipal level. Because the County MCR work is ongoing, which will provide updated employment and population growth direction for municipalities to 2051 and will designate all employment areas throughout the County, the County is discouraging municipalities from making any immediate decisions with respect to employment land conversions until the MCR is complete.

In response to the consultation comments described above, addendum submission documentation was received July 14, 2020 for further review and comment. The response submission materials provided further planning rationale in support of the proposed development and the development proposal has remained unchanged. The review of the submission materials and discussions with the applicant remain ongoing, in an effort to determine a satisfactory resolution to the outstanding planning concerns with the applications.

4. Appeal

On August 28, 2020, the applicant filed a notice to the Town for their submission of an appeal to the Local Planning Appeal Tribunal (LPAT) with respect to their applications. This appeal was submitted based on a failure of the Town to make a decision on the Official Plan and Zoning By-law amendment applications within the statutory timelines prescribed by subsections 22(7) and 34(11) of the Planning Act (being 120-days for official plan amendments and 90-days for zoning by-law amendments).

A Case Management Conference (CMC) has been scheduled for Wednesday February 3, 2021 with respect to this appeal. The purpose of the CMC is to address preliminary procedural matters, which generally include:

1. **Identification of Parties in the appeal:** “Parties” are those who are involved through the entire duration of the appeal adjudication process and have the ability to present evidence, question evidence and testimony of other parties and participate in the determination of any issues to be addressed through the appeal;
2. **Identification of Participants:** “Participants” are those who do not wish to have the same level of involvement as a Party in the appeal, but may wish to attend a hearing and make a verbal or written submission to the Tribunal concerning their interest in the matter;
3. **Identification of Issues** to be addressed through the appeal adjudication process;
4. **Determine the possibility of settlement and/or mediation** of any or all of the issues of the appeal;
5. **Other procedural matters:** including a potential start date and duration of a hearing, further scheduling of subsequent CMC’s and/or pre-hearing events, directions for determining the extent of expert witnesses and coordinating their submissions of evidence, etc.

Staff is proposing to attend the CMC with the Town’s legal counsel to represent the municipality in this appeal. As part of the LPAT process to reach a final determination and decision on the appeal, there may be opportunities for mediation and/or a future settlement. Going forward, Council will be kept apprised of any significant progression of this appeal process and will have further opportunity to provide direction to staff and counsel as necessary.

Strategic Alignment

Orangeville Forward – Strategic Plan

Priority Area: Sustainable Infrastructure

Objective: Plan for Growth

Sustainable Neighbourhood Action Plan

Theme: Land Use and Planning

Strategy: Co-ordinate land use and infrastructure planning to promote healthy, liveable and safe communities.

Notice Provisions

The Notification requirements of the Planning Act have been satisfied for these applications as follows:

1. A Notice of Applications was issued on July 18, 2019 via:
 - i. circulation to all property owners within 120 metres of the subject property;
 - ii. advertisement in the Orangeville Citizen newspaper
 - iii. publishing on the Town website; and
 - iv. posting of notice signs along the Hansen Boulevard road frontages of the subject properties.
2. A Notice of the January 27, 2020 public meeting was issued on January 2, 2020 in the same manner as described above.

Notification for the February 3, 2021 CMC must be issued by the appellant pursuant to the direction and requirements given by the Tribunal. On December 16, 2020 this Notice was issued by the appellant in accordance with this direction to:

- i. all required public agencies;
- ii. all landowners within 120 metres of the subject lands; and
- iii. any individual who has submitted a request to the Town to be notified or kept apprised of any future Council decision or consideration of the applications.

Financial Impact

There are financial impacts anticipated, with respect to the Town's legal counsel representation and attendance at the upcoming Case Management Conference and their role in providing legal support for the Town in this appeal matter.

Respectfully submitted

Douglas G. Jones, M.E.Sc., P.Eng.
General Manager, Infrastructure Services

Prepared by

Brandon Ward, MCIP, RPP
Manager of Planning, Infrastructure Services

Attachment: 1. Location Map