



OAKVILLE

## REPORT

### Planning and Development Council

Meeting Date: May 2, 2022

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**FROM:** Legal Department

**DATE:** April 19, 2022

**SUBJECT:** Ontario Land Tribunal Appeal – OLT-22-002119, 2262-2266 Lakeshore Road and 83 East Street (Z.1728.66)

**LOCATION:** 2266 Lakeshore

**WARD:** Ward 1

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#### **RECOMMENDATION:**

That comments from the public related to the development options provided through the settlement offer in OLT-22-002119, submitted by 2266 Lakeshore LP be received prior to Council making a decision with respect to the offer through the related confidential report.

#### **KEY FACTS:**

The following are key points for consideration with respect to this report:

- Applications for Official Plan and Zoning By-law amendments were submitted by 2266 Lakeshore LP to permit the development of a 15 storey, mixed use building, providing 245 rental apartments and 446 m<sup>2</sup> at-grade retail uses, subject to bonusing.
- Current maximum heights under the Livable Oakville Official Plan are six storeys or 10 storeys with bonusing.
- A statutory public meeting was held before Council on October 4, 2021. Comments from members of the public were mixed, with the majority raising concerns with respect to the application.
- An appeal based on a lack of decision was filed on January 11, 2022.
- The applicant has provided the town with a settlement offer based on two alternative versions of their development proposal (a 10 storey option and a 13 storey option).
- If this matter proceeds to a hearing, the applicant would continue to seek approval of the original 15 storey option. No hearing dates have been set.

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- The local Councillors have requested and the applicant has agreed to provide an opportunity for members of the public to provide comments with respect to the settlement proposals.
  - Since this matter is subject to ongoing litigation, legal advice and recommendations with respect to both the settlement offer and the possibility of opposing the application at a hearing are provided separately in a confidential report on this agenda. Council will be making a decision on the town's position in the appeal through that report.

### **BACKGROUND:**

The application which is the subject of this appeal was submitted on August 13, 2021 and includes proposed amendments to both the Livable Oakville Official Plan and Zoning By-law 2014-014:

- The current provisions of the Official Plan permit 4- 6 storeys with an additional 4 storeys (for a total of 10 storeys) being achievable through the provision of community benefits under section 37 of the *Planning Act* ("bonusing"). The Official Plan amendment would permit an additional 5 storeys of height through bonusing for a total overall building height of 15 storeys (9 of which would be subject to bonusing).
- The Zoning By-law amendment maintains the MU1 zone, with site specific provisions related to matters such as height, setbacks, step backs and parking. A total of 273 parking spaces (245 for residents and 28 commercial/visitor) were proposed.

Section 37 of the *Planning Act*, has been amended by the province to replace the permissions for bonusing with a new community benefits charge. Nevertheless, bonusing provisions requiring community benefits as a condition of extra height may still be included in by-laws passed on or before September 18, 2022.

A statutory public meeting was held before Council on October 4, 2021, as Item 6.1 on the agenda. The staff report, original application materials and materials submitted in support of the settlement offer are available on the town's website at <https://www.oakville.ca/business/da-38994.html>.

Several residents made submissions to Council on the application at the public meeting. Most, including a petition were opposed to the development but some were supportive.

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- Concerns raised by members of the public included:
    - Objections to there being further changes to the Official Plan and Zoning By-law following recent studies
    - Height and massing (including shadowing, loss of views and change to the “village” character)
    - Separation distances from existing buildings, including privacy impacts
    - Inadequacy of parking
    - Increased traffic
    - Pedestrian safety/sight lines.
    - Construction Impacts
  
  - Positive comments provided by members of the public related to:
    - Architecture and design
    - the proposed urban square
    - Benefits of additional residents to existing area merchants.

Planning staff had identified a number of issues to be considered as part of their staff report. Council had identified additional issues to be included in any future staff report, including providing a better understanding of the potential gateway function of the site, information related to active transportation and transportation management, and questions related to the privately-owned publicly accessible space (“POPS”) easement that was proposed for the urban square.

The applicant has provided the town with a settlement offer in the appeal based on one of two alternative concepts, referred to in this report as the “13 storey option” and the “10 storey option”.<sup>1</sup>

The applicant has agreed to make the drawings associated with their settlement offer available to the public to allow for public consultation prior to Council making any decision with respect to its position for the hearing. The applicant remains of the opinion that the original 15 storey building represents good planning and has reserved its right to seek approval of the original application if the matter proceeds to a hearing.

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<sup>1</sup> In each option (including the earlier 15 storey option), there is an enclosed mezzanine which is proposed to be incorporated into the first storey of the building. The Building Code and Zoning By-law 2014-014 counts a mezzanine as a storey if it is (a) enclosed and occupies more than 10% of the relevant floor area or (b) unenclosed and occupies less than 40% of the relevant floor area. The proposed mezzanine is enclosed and represents approximately 30% of the floor area. From the perspective of the Building Code, the buildings are 11/14/16 storeys instead of 10/13/15. The physical height of the building in metres would not be affected by the proposed mezzanine. The physical height of the first storey is the result of the proposal to provide for garbage removal within the building.

Plans and drawings for each of the 10 storey and 13 storey options have been added to the webpage at <https://www.oakville.ca/business/da-38994.html>. Excerpts from the drawings for each concept are attached to this report.

## **COMMENT/OPTIONS:**

A summary of some of the similarities and differences between the original application and the two alternative proposals is provided in the table below:

### **Summary of Options:**

	<b>Original</b>	<b>13 storey</b>	<b>10 storey</b>
Height (Storeys) <sup>2</sup>	15	13	10
Height (metres) <sup>3</sup>	50.5 m	43.85 m	34.35 m
# units (total)	245	244	244
Retail Area	446 m <sup>2</sup>	394 m <sup>2</sup>	586 m <sup>2</sup>
# Parking Spaces (Total)	273	268	268
Residential (1/unit)	245	244	244
Visitor/Retail	28	24	24
Urban Square (POPS)	Yes	Yes	No

Changes to some of these numbers may be achievable through further negotiations or required as a result of detailed design. Significant changes may only be achievable through a hearing.

Since this matter is subject to an ongoing appeal, staff is not providing detailed public opinions. Instead, a confidential report appears on this agenda.

While any comments received from the public may influence Council's priorities for its position at the hearing, the decision on the application will ultimately be made by the Ontario Land Tribunal based on its consideration of evidence and the application of relevant planning policies and principles. Information with respect to relevant policies and issues was provided in the staff report to the October 4, 2021 Planning and Development Council meeting.

## **CONSIDERATIONS:**

### **(A) PUBLIC**

Notice of this meeting was provided to the Bronte Village Residents Association and to individuals who had made submissions to Council at the public meeting.

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<sup>2</sup> Not adjusted for the inclusion of the mezzanine

<sup>3</sup> Excludes mechanical equipment/elevator in accordance with By-law 2014-014

**(B) FINANCIAL**

There are no direct financial impacts of this report. Potential financial impacts of the settlement or hearing options are described in the confidential report.

**(C) IMPACT ON OTHER DEPARTMENTS & USERS**

Members of the Planning Service Department have been consulted in the preparation of this report and would be involved in any future hearing process.

**(D) CORPORATE STRATEGIC GOALS**

This report addresses the corporate strategic goal(s) to:  
Provide accountable government by providing the maximum possible degree of transparency in Council's decision making processes.

**(E) CLIMATE CHANGE/ACTION**

Opportunities to refine the development in a manner that may have benefits related to climate changes will continue to be explored through other processes or discussions.

**APPENDICES:**

Appendix A – Excerpts from Plans for 15/13/10 storey options.

Prepared and Recommended by:  
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Submitted by:  
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