

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



17-157-OMB-01
Attachment 1

ISSUE DATE: August 22, 2019

CASE NO.: PL160498

The Ontario Municipal Board (the "OMB") is continued under the name Local Planning Appeal Tribunal (the "Tribunal"), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

| | |
|-------------------------------|---|
| Applicant and Appellant: | Mikmada Development Group Inc. |
| Subject: | Application to amend Zoning By-law No. 90-145-Z -Neglect of the City of Hamilton to make a decision |
| Existing Zoning: | "HC-2" Highway Commercial |
| Proposed Zoning: | "R6-x" Medium Density Residential and "R1" Urban Residential |
| Purpose: | To permit a 79-unit townhouse development |
| Property Address/Description: | 383 Dundas Street East |
| Municipality: | City of Hamilton |
| Municipality File No.: | ZAC-15-055 |
| OMB Case No.: | PL160498 |
| OMB File No.: | PL160498 |
| OMB Case Name: | Mikmada Development Group Inc. v. Hamilton (City) |

PROCEEDING COMMENCED UNDER subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

| | |
|-------------------------------|--------------------------------|
| Subject: | Site Plan |
| Referred by: | Mikmada Development Group Inc. |
| Property Address/Description: | 383 Dundas Street East |
| Municipality: | City of Hamilton |
| OMB Case No.: | PL160498 |
| OMB File No.: | PL170047 |

BEFORE:

SHARYN VINCENT) Tuesday, the 30th
MEMBER)
) day of July, 2019

THIS MATTER having come on for public hearing, and the Tribunal in its Decision issued on August 14, 2017 having allowed the appeals of the Zoning Bylaw Amendment in part, withholding its Final Order until the Board was advised by the City Solicitor that:

- i. the final form and content of a zoning by-law, being an amended Exhibit 34R, has been revised to reflect the Board's findings which require changes to s. 3(t); and
- ii. that the site plan has been approved, or in the alternative approved by the Board.

AND THE TRIBUNAL having been provided the final form and content of the Zoning By-law, on consent of the municipality, and provided with confirmation that once the Tribunal issues its final order, the City will grant Site Plan Approval;

THE TRIBUNAL ORDERS that:

1. The final form of zoning by-law amendment attached hereto as Attachment "1" respectively, is approved.

A handwritten signature in black ink, reading "Ma Hurwicks". The signature is written in a cursive, flowing style.

REGISTRAR

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Tribunals Ontario – Environment and Land Division
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

Attachment 1

Authority: Item
 Planning Committee
 Report: 17- (PEDXXXXX)
 CM:

Bill No.

CITY OF HAMILTON

BY-LAW NO.

To Amend Zoning By-law No. 90-145-Z (Flamborough), Respecting Lands Located at 383 Dundas Street East and 4 First Street (Flamborough)

WHEREAS the *City of Hamilton Act, 1999*, Statutes of Ontario 1999 Chap. 14, Schedule C did incorporate, as of January 1st, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "The Corporation of the City of Hamilton", and is the successor of the former Regional Municipality, namely, "the Regional Municipality of Hamilton-Wentworth";

AND WHEREAS the *City of Hamilton Act, 1999*, provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council or the City of Hamilton;

AND WHEREAS Zoning By-law No. 90-145-Z (Flamborough) was enacted on the 5th of November 1990 and approved by the Ontario Municipal Board on the 21st of December, 1991;

AND WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan.

NOW THEREFORE the Local Planning Appeal Tribunal orders:

1. The Schedule "A-31" of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended to rezone from the Highway Commercial "HC-2" Zone, Modified, to Medium Density Residential "R6-46(H)" Zone, Modified, on the lands

identified as Block 1 the extent and boundaries of which are more particularly shown on Schedule "A", annexed hereto and forming part of this By-law.

2. For the purposes of this By-law, the following definitions shall apply:

2.1 Maisonette: For the purpose of this By-law, a Maisonette shall be defined as a building not more than one single detached dwelling unit in height, designed to contain not less than six dwelling units and not exceeding 14 dwelling units, fully attached to each other, side-by-side, in two rows arranged back-to-back and in substantial harmony with each other, each of which dwelling unit:

- a. Has a separate front entrance;
- b. Is joined on one or both sides by a party wall to another dwelling unit in the same row; and,
- c. Is joined by a common vertical back wall extending the length of the building.

2.2 Stacked Townhouse: For the purpose of this By-law, a Stacked Townhouse shall be defined as a building divided vertically and horizontally, not more than two dwelling units in height, with a maximum of ten dwelling units, each having a separate front entrance at grade.

3. Section 11 – Medium Density Residential "R6" Zone of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by adding the following sub-section:

11.3 EXCEPTION NUMBERS

11.3.46 "R6-46(H)" (See Schedule A-31)

Permitted Uses shall be restricted to:

- (a) Townhouse
- (b) Maisonette
- (c) Stacked Townhouse

For the purpose of this amending By-law, the lot line adjacent to Dundas Street East shall be deemed the front lot line, the northwesterly lot line measuring 72.44 m shall be deemed the rear lot line, the lot line adjacent to First Street and the hypotenuse lot line between Dundas Street East and First Street shall be deemed the exterior side lot line, and all other lot lines shall be deemed side lot lines.

ZONE PROVISIONS

- | | | |
|-----|--|---|
| (a) | Lot Area (minimum) | 10,000 sq m |
| (b) | Lot Frontage (minimum) | 30.0 m |
| (c) | Height (maximum) | 12.8 m |
| (d) | Lot Coverage (maximum) | 40% |
| (e) | Density (maximum)..... | 72.7 uph but not exceeding 79 units in total |
| (f) | Landscaped Open Space (minimum) | 25% |
| (g) | Front Yard (minimum) | 5.25 m |
| (h) | Rear Yard (minimum) | 7.5 m |
| (i) | Interior Side Yard (minimum) | 7.5 m from a rear wall of a dwelling unit to any interior side lot line |
| | | 1.6 m from an end wall of a dwelling unit to any interior side lot line |
| (j) | Exterior Side Yard (minimum) | 3.25 m abutting First Street |
| | | 1.25 m abutting the hypotenuse lot line between Dundas Street East and First Street |
| (k) | Minimum Distance Between Buildings on the Same Lot | 2.4 m between end walls |
| (l) | Landscaped Open Space General Provision 5.12.1(d) shall not apply. | |
| (m) | Planting Strip – General Provision 5.12.2 shall not apply. | |

- (n) Loading Space Requirements – General Provision 5.13.1(a) and 5.13.3 shall not apply.
- (o) Notwithstanding Paragraph (c) of Section 5.21.1, the following parking provisions shall apply:

| Type of Use | Minimum Number of Parking Spaces Required |
|-------------------|--|
| Townhouse | 2.0 parking space per dwelling unit plus 0.25 visitor parking spaces per dwelling unit |
| Stacked Townhouse | 2.0 parking space per dwelling unit plus 0.25 visitor parking spaces per dwelling unit |
| Maisonette | 2.0 parking space per dwelling unit plus 0.25 visitor parking spaces per dwelling unit |

- (p) Notwithstanding Section 5.21.4, each parking space shall have a minimum width of 2.6 m and a minimum length of 5.5 m. A parking space for disabled persons shall have a minimum width of 3.9 m and a minimum length of 5.5 m.
- (q) Tandem parking shall be permitted for those parking spaces located in the attached garages and driveways appurtenant to the maisonettes, townhouses and stacked townhouses.
- (r) Notwithstanding Section 5.21.6(b), driveways with two-way vehicular movement shall have a minimum unobstructed width of not less than 6.0 m.
- (s) In addition to Section 5.30 Yard Encroachments Permitted, the following shall apply:
No part of any required yard shall be obstructed by any structure or building, or part thereof; from the ground floor to the sky except as follows:

| Structure | Yard into which Encroachment is Permitted | Maximum Encroachment Permitted into Required Yard |
|-----------|---|---|
| Balconies | Required front yard | 3.5 m |

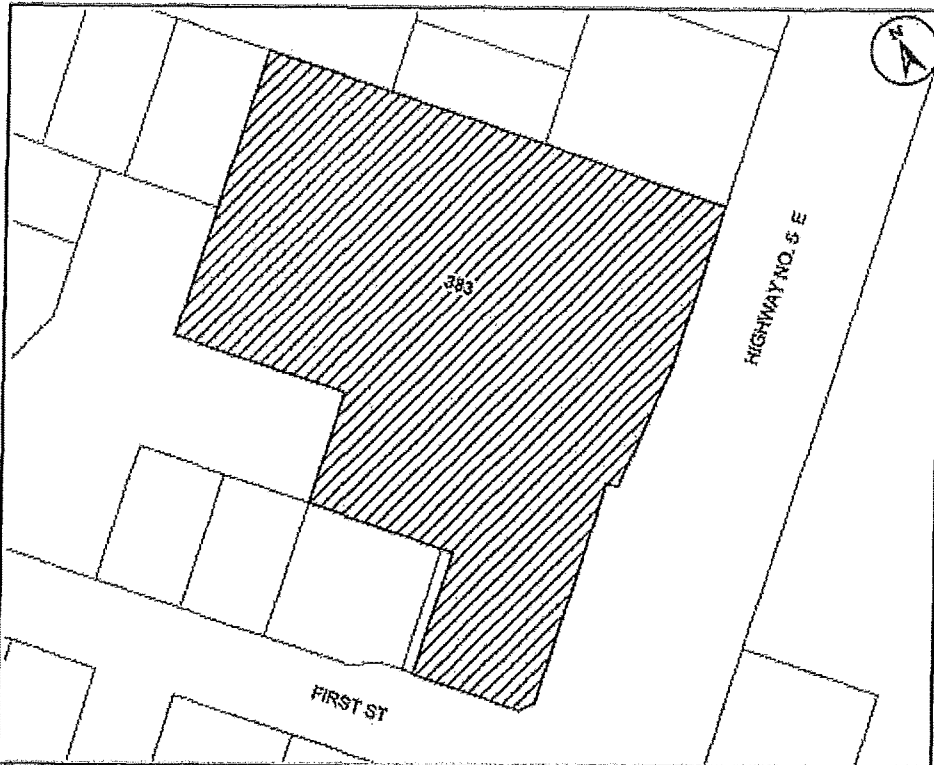


| | | |
|--|--|-------|
| Canopies, awnings, steps or unenclosed porches | Required front, required rear yard, required exterior side yard, and required interior side yard | 3.5 m |
|--|--|-------|

- (t) Notwithstanding any provisions to the contrary, no rear deck or balcony shall exceed a height of 1.5 m above grade on dwelling units directly abutting any lot line with a single detached dwelling. For the purposes of this regulation, and notwithstanding the definition of grade in Section 3: Definitions, grade shall be measured at the rear wall of the perimeter dwelling units.
 - (u) Notwithstanding subsection (t) above:
 - (i) within 36 m of First Street rear balconies shall be permitted along the rear wall of dwellings fronting onto Dundas Street East provided the rear balcony is a minimum of 13 m from the opposite lot line;
 - (ii) front balconies shall be permitted to extend a maximum of 1.8 m beyond the front wall of a maisonette dwelling;
 - (iii) rear balconies shall be permitted to extend a maximum of 4.1 m beyond the rear wall of a stacked townhouse dwelling; and,
 - (v) Notwithstanding any provisions to the contrary, vehicular access to the site shall not be permitted from First Street.
 - (w) Notwithstanding any provisions to the contrary, vehicular access to the site shall not be permitted from Boulding Avenue.
 - (x) General Provisions – Other than contained herein, all other provisions of Section 5 shall apply.
 - (y) All other zone provisions of Section 11.2 shall apply.
3. The Holding Provision shall not be removed until such time as the following conditions have been completed:
- (i) The Holding Provision shall preclude development of any units beyond the existing sanitary flow to Pumping Station DC14 and population allocation until the existing Pumping Station DC14 is upgraded and operational, to the satisfaction of the Senior Director of Growth Management;
 - (ii) The Holding Provision shall preclude the development of any units until a detailed Functional Servicing Report is submitted and approved by the City to demonstrate how quantity and quality will be handled in accordance with City and MOECC standards. Level 1, on site quality control shall be demonstrated and 100 year post development flow for the subject site shall be controlled to

lesser of 5 years predevelopment flow or free flow capacity of existing storm laterals, to the satisfaction of the Senior Director of Growth Management.

4. Prior to the removal of the Holding Provision and following conditional site plan approval, preliminary site grading and on site servicing may be permitted as approved by the Senior Director of Growth Management but no connections to City sanitary sewers or water services shall be permitted prior to the lifting of the Holding Provision.
5. No building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the Medium Density Residential "R6-46(H)" Zone, Modified, subject to the special requirements referred to in Sections 2 and 3 above.

Schedule "A"

| | | | | | |
|--|--|---------------------------------|-----------------------|-------------------------------|---|
|  | | | | | |
| <p>This is Schedule "A" to By-law No. 19-</p> <p>Passed the day of, 2019</p> | <p>-----</p> <p>MAYOR</p> <p>-----</p> <p>CLERK</p> | | | | |
| <p>Schedule "A"</p> <p>Map Forming Part of</p> <p>By-law No. 19-_____</p> <p>to Amend By-law No. 90-145-Z</p> | <p>Subject Property</p> <p>383 Dundas Street East</p> <p> Change in zoning from the Highway Commercial "HC-2" Zone, Modified to the Medium Density Residential "R6-46(H)" Zone, Modified, with a Holding</p> | | | | |
| <table border="1"> <tr> <td>Scale: N.T.S.</td> <td>File Name/Number: ZAC-15-055</td> </tr> <tr> <td>Date: July 3, 2019</td> <td>Planner/Technicians: MG/AL</td> </tr> </table> | Scale: N.T.S. | File Name/Number: ZAC-15-055 | Date: July 3, 2019 | Planner/Technicians: MG/AL |  |
| Scale: N.T.S. | File Name/Number: ZAC-15-055 | | | | |
| Date: July 3, 2019 | Planner/Technicians: MG/AL | | | | |
| <p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p> | | | | | |