

ISSUE DATE:

January 16, 2013



PL120819

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

Lepinia Investments Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal to enact a proposed amendment to Zoning By-law 2010-100Z of the City of Greater Sudbury to rezone lands respecting 2216 Long Lake Road from C2(56) General Commercial Special to a revised C2(S) General Commercial Special to permit an 7-storey multiple dwelling with 60 dwelling units
OMB File No. PL120819

APPEARANCES:

Parties

Counsel*/Agent

Lepinia Investments Inc.

Marc Kemerer*

Ray St. Louis and Sandra Dorman

self-represented

Lockerby Legion 564

Chris Nadjiwan

DECISION DELIVERED BY JOE G. WONG AND ORDER OF THE BOARD

BACKGROUND

[1] Lepinia Investments Inc. ("Applicant") is appealing a refusal by Council for the City of Greater Sudbury ("City") for a zoning by-law amendment ("ZBLA") to permit a seven-storey multi-unit residential dwelling containing 60 units at 2216 Long Lake Road ("Subject Property").

[2] At the outset of hearing, Ray St. Louis and Sandra Dorman who jointly sought party status as representatives of the neighbouring residents and for themselves were added as a single party on consent. The Lockerby Legion 564 ("Legion"), which abuts the north side of the Subject Property, represented by its President, Chris Nadjiwan, was also granted party status on consent. The City was not in attendance.

EVIDENCE

[3] Rick Yallowega is a qualified architect and urban designer retained by the Applicant. Mr. Yallowega testified the Subject Property is located at the northeast corner of the intersection on Long Lake Road and Alice Street. He indicated that the subject site is located between a large regional mall with grocery store – Southridge Mall to the north and a brand new Wal-Mart/LCBO that also fronts onto Long Lake Road.

[4] Mr. Yallowega described the proposed development as a seven-storey building consisting of six floors above a garage. He testified that the underlying C2 zoning allows for five-storeys and the difference here is negligible in terms of impact on the Legion's property next door. According to Mr. Yallowega, there is more traffic generated with a commercial development than with a residential project marketed to seniors.

[5] Mr. Yallowega testified that a site plan agreement (not a subject of this hearing) will be required and it will address any traffic issues including the construction of a southbound left-turn lane on Long Lake Road. This proposal moves the subject building closer to Long Lake Road creating a 45 m rear buffer and being closer to the road makes it more pedestrian friendly. He pointed out that there is no direct access from Long Lake Road and that the access is from Alice Street. He advised the Board that the Applicant is a quality builder and he has no objections to the Planning Department's recommended conditions of approval.

[6] Eric Taylor, a qualified land-use planner and the Manager of Development Approval for the City, appeared under summons. He testified that the staff report (Exhibit 2, Tab 4) recommended approval of a seven-storey and not an eleven-storey building with a southbound left-turn lane from Long Lake Road to Alice Street to address any traffic impact concerns. According to Mr. Taylor, the existing northbound right-hand turning lane together with a new southbound left-turn lane from Long Lake Road onto Alice Street creates the shortest route into the Subject Property.

[7] According to Mr. Taylor, the City's Official Plan (OP) discourages entry from an arterial road and so the Subject Property will be accessed from Alice Street. In this case, the Subject Property is the first property off of Long Lake Road and the dedicated

turning lanes will eliminate the need to have vehicles proceed further into the neighbourhood. Mr. Taylor testified that the City's Transportation Department had no concerns about the traffic carrying capacity of the roads to accommodate the additional traffic from this development.

[8] Mr. Taylor testified that this proposal conforms to the Provincial Policy Statement ("PPS") because it provides intensification, adds to the mix of available housing types, utilizes existing municipal services and is served by public transit. The City's Official Plan designates the Subject Property as mixed-use commercial which permits commercial, residential and institutional uses. The subject site is also part of a Regional Centre designated for intensification. In his opinion, there are no issues with site capacity and includes 90 on-site parking spaces.

[9] Mr. Taylor testified that with existing in-place special zoning "C2(56)" the only permitted uses are the sale and storage of stone products and a single residential dwelling. The proposed ZBLA is consistent with the underlying C2 uses and that it allows the City to review and ensure compatibility. In his opinion, the proposed development represents an improvement over the current uses, the sale and storage of stone products. He notes that the Harley Davidson dealership located across the street from the subject site was previously a truck repair shop.

[10] When asked, Mr. Taylor had no comments as to the timing of the new left-hand turning lane and when it would be installed. He presumed that this would be determined by Council and the Transportation Department.

[11] Mr. St. Louis testified that he is concerned about people cutting through the neighbourhood to access the Subject Property and those seeking to avoid the traffic on Long Lake Road particularly from the -Wal-Mart. He also had concerns about the traffic speeding along Long Lake Road. Mr. St. Louis expressed concerns about the proposed building height and its effect on the solar panels on the Legion's building.

[12] Chris Nadjiwan testified that the Legion has plans to put solar panels on its roof and to sell the electricity. According to Mr. Nadjiwan, this Legion is the largest in Canada and it supports veterans, widows and their dependants. He indicated that "Microfit" system is being considered but there is currently no contract in-place.

[13] The Board heard from several local residents who expressed concern about increased traffic onto Alice Street and the corresponding increase in accidents (both pedestrian and vehicular). Their other concerns included the height of this development in an area consisting mainly of two-storeys, shadowing and sunlight obstruction, the loss of privacy, and the resulting construction and blasting noise.

ANALYSIS AND DISPOSITION

[14] The Subject Property is located at the northeast corner of Long Lake Road and Alice Street between a regional mall, Southridge Mall to the north and a Wal-Mart/LCBO store to south. Currently, there is a dedicated right-hand turn lane for northbound traffic onto Alice Street from Long Lake Road. Mr. Taylor has recommended, as part of the ZBLA approval, the addition of a dedicated left-hand turn lane for southbound traffic on Long Lake Road onto Alice Street. Included with the new left-hand turning lane is the construction of a sidewalk along the Long Lake Road frontage to improve access and pedestrian safety. The Board finds that the addition of a left-hand turn lane and a sidewalk will address the traffic and pedestrian safety concerns raised by the area residents.

[15] Some of the witnesses provided their personal observations on traffic congestion and safety. In this case, the Board relies on the testimony of Mr. Taylor who provided the only professional planning evidence. He testified that the addition of a left hand turn lane will address any concerns about safety, congestion, and traffic cutting through the neighboured resulting from the proposed development. The Board finds some of the traffic concerns are the result of residing close to/next to an arterial road with major commercial activity.

[16] Other concerns expressed by area residents related to cars speeding along Long Lake Road and the presence of snow banks affecting road visibility; these concerns are not specific to the proposed development and are matters of by-law enforcement and road maintenance that are outside of the Board's mandate.

[17] A concern was raised by the Legion (located next door) about the impact of the proposed development on roof top solar electricity generation. Mr. Yallowega testified that there is negligible impact from the seven-storey development when compared to

the as-of-right five-storey development. Specifically, in terms of shadowing impacts on the Legion property next door, they are minimal and only at very specific times of the year. Mr. Yallowega's evidence was not contradicted and so the Board accepts his evidence.

[18] Mr. Taylor testified that a seven-story building was appropriate given its location on an arterial road and the Board agrees with Mr. Taylor. The subject lands are also part of a planned Regional Centre which is a planned commercial node targeted for intensification. The subject site is being intensified and redeveloped from a single dwelling unit (a detached house) to a 60-unit multi-family dwelling. The subject lands are also well served by three existing transit routes. The Board finds that the proposed ZBLA is consistent with and maintains the intent of the OP.

[19] The underlying C2 mixed-use commercial zoning permits multi-family residential, commercial and institutional development. Therefore, the Board is satisfied that the proposed ZBLA to permit a 60-unit multi-family dwelling is consistent with the underlying zoning.

[20] The Board finds that the proposed ZBLA is consistent with the PPS and the Northern Ontario Growth Plan which supports intensification and development along arterial roads, implements the City's OP and represents good planning for all the reasons discussed. As such, the Board adopts Mr. Taylor's recommended conditions of approval as contained in the City's Planning Department report (Exhibit 2, Tab 4).

[21] The Board orders that the appeal against By-law No. 210-100Z of the City of Greater Sudbury is allowed in part, and the Board directs the municipality to amend By-law No. 2010-100Z as set out in Attachment A (recommendations in Exhibit 2, Tab 4) to this order. In all other aspects, the Board orders the appeal is dismissed.

"Joe G. Wong"

JOE G. WONG
MEMBER

ATTACHMENT A

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Request for Decision

Application for rezoning in order to permit an 11-storey multiple dwelling with 60 dwelling units, 2216 Long Lake Road, Sudbury - Lepinia Investments Inc

Presented To: Planning Committee
Presented: Monday, May 28, 2012
Report Date: Tuesday, May 15, 2012
Type: Public Hearings
File Number: 751-6/12-1

Recommendation

THAT the City of Greater Sudbury approve the application by Lepinia Investments Inc. to amend the Zoning By-law 2010-100Z by changing the zoning classification from "C2(56)", General Commercial Special to a revised "C2(56)", General Commercial Special on those lands described as PIN 73475-0591, Parcel 30406 S.E.S., Parts 3, 4 & 5, Plan SR-305, in Lot 6, Concession 6, Township of Broder, subject to the following conditions:

a. That the amending by-law include the following site specific provisions:

- i) That the only permitted use shall be a multiple dwelling with a maximum of 60 dwelling units and related accessory uses;
- ii) That a maximum gross floor area of 2.1 times the lot area shall be permitted;
- iii) That the maximum building height shall be 21 metres and shall not exceed seven storeys; and,
- iv) That the minimum rear yard shall be 7.5 metres, except for any part of the building greater than two (2) storeys the setback shall be a minimum of 40 metres from the building line of the residential tower to the easterly lot line.

b. That prior to the issuance of a building permit, the owner shall enter into a Site Plan Control Agreement with the City, which amongst other matters shall address the following requirements:

- i) The owner shall contribute towards the cost of a southbound left turn lane and the urbanization of Long Lake Road, including a sidewalk adjacent to the subject property, to the satisfaction of the General Manager of Infrastructure Services;
- ii) The owner shall agree to transfer to the City a three (3) metre strip of property along the entire frontage of Long Lake Road upon demand, if and when required for future road improvements, free of mortgages, charges, trust deeds and other encumbrances securing financing. The City shall be responsible for all survey and legal costs associated with this transfer; and,

Signed By
<p>Report Prepared By Mauro Manzon Senior Planner <i>Digitally Signed May 15, 12</i></p>
<p>Reviewed By Eric Taylor Manager of Development Services <i>Digitally Signed May 15, 12</i></p>
<p>Recommended by the Division Paul Baskcomb Director of Planning Services <i>Digitally Signed May 15, 12</i></p>
<p>Recommended by the Department Bill Lautenbach General Manager of Growth and Development <i>Digitally Signed May 15, 12</i></p>
<p>Recommended by the C.A.O. Doug Nadorozny Chief Administrative Officer <i>Digitally Signed May 15, 12</i></p>

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iii) Access to the subject property shall be restricted to Alice Street.

STAFF REPORT

Applicant:

Lepinia Investments Inc. (Agent: YB Architecture)

Location:

PIN 73475-0591, Parcel 30406 S.E.S., Parts 3, 4 & 5, Plan SR-305, in Lot 6, Concession 6, Township of Broder (2216 Long Lake Road, Sudbury)

Application:

To amend By-law 2010-100Z being the City of Greater Sudbury Zoning By-law from "C2(56)", General Commercial Special to a revised "C2(S)", General Commercial Special.

Proposal:

Application for rezoning in order to permit an 11-storey multiple dwelling with 60 dwelling units.

Official Plan Conformity:

Mixed Use Commercial

The subject property is designated as Mixed Use Commercial in the Official Plan. Residential development is permitted in Mixed Use designations. High and medium density residential uses are encouraged along major arterial roads that offer close proximity to services, transit and employment areas. Official Plan policies also promote the provision of a range of housing options as a means of diversifying the supply of new housing. Infill projects that contribute to residential intensification targets are also supported.

Subject to rezoning, new development may be permitted provided that:

- a. sewer and water capacities are adequate for the site;
- b. parking can be adequately provided;
- c. no new access to Arterial Roads will be permitted where reasonable alternate access is available;
- d. the traffic carrying capacity of the Arterial Road is not significantly affected;
- e. traffic improvements, such as turning lanes, where required for a new development, will be provided by the proponent; and,
- f. landscaping along the entire length of road frontages and buffering between non-residential and residential uses will be provided.

South End

The subject land also falls under the special policies applied to the South End area, as outlined under Section 21.4 of the Official Plan. With respect to land use in the South End it shall be the objective of