

## **West End Home Builders' Association**

1112 Rymal Road East, Hamilton

*Serving members in Hamilton and Halton Region*

January 23, 2024

TO:

- Alana Fulford, Senior Planner, City of Hamilton
- Mallory Smith, RPP, Planner, City of Hamilton
- Shannon McKie, Manager, Zoning and Committee of Adjustment

### WE HBA Letter: City of Hamilton Residential Zones Project: Reimagining Neighbourhoods

The West End Home Builders' Association (WE HBA) is the voice of the land development, new housing and professional renovation industries in Hamilton, Burlington, and Grimsby. The WE HBA represents approximately 300 member companies made up of all disciplines involved in land development and residential construction, including: builders, developers, professional renovators, trade contractors, consultants, and suppliers. The WE HBA and our members are substantially and directly involved in building the future of Hamilton and the construction of new housing opportunities.

WE HBA appreciates the City of Hamilton's focus on responding to the ongoing housing crisis with an objective to achieve its provincial Housing Pledge of delivering 47,000 units by 2031. This focus has included previous work to expand Additional Dwelling Unit permissions, planning process improvements, and moves towards ending exclusionary zoning. WE HBA thanks the City and WSP for engaging with the development industry on the Residential Zones Project and providing opportunities for the public and industry to comment. WE HBA appreciated the opportunity to participate in the January 9<sup>th</sup> Development Industry Stakeholder Workshop. Outlined below are technical comments on the draft zoning regulations and Neighbourhood Infill Design Guidelines and recommendations for future modifications and study.

#### **Background and Summary**

WE HBA appreciates the work the City has undertaken to complete the final phase of Comprehensive Zoning By-law No. 05-200 implementation through the consolidation of 40+ residential zones of former municipal zoning by-laws into three new Low Density Residential Zones, as well as the introduction of two new Mid Rise Residential Zones. This is a significant undertaking, and we commend the City for advancing this project. While consolidation in and of itself is good to streamline the amount of regulation, WE HBA has concerns opportunity is lost if regulations do not reflect sensitivity to today's context. WE HBA supports the streamlining and simplification of zoning to enable further opportunities for as-of-right permissions to support new housing supply and reduce the number of applications that would require zoning and Official Plan amendments.

While WE HBA is appreciative of actions the City is taking towards ending exclusionary zoning, WE HBA has some concerns that the draft R1, R1a, R2, R3, and R3a zones, and the draft Neighbourhood Infill Design Guidelines are not permissive enough in nature to allow sites to proceed directly to site plan or building permit. Despite overall improvements we encourage the city to take a bolder approach. We are concerned the current proposal will require many sites to still go through lengthy, expensive processes to receive approvals already contemplated and supported in the Official Plan.

At a high level, WE HBA wishes to emphasize the opportunity this project presents to advance equity in zoning by-laws and identify that this should be a key objective of zoning by-law reform. Specifically, this means not privileging residents of single detached units over those who will live in as-of-right built duplexes, triplexes, quads, townhouses, or mid-rise residential buildings through built form restrictions that diminish the buildable footprint of these units. Development concepts expressly supported by the Urban Hamilton Official Plan should be supported by broad, as-of-right zoning permissions. The drafts as currently written do not meet this urgent objective.

## **Low Density Residential Zones**

WE HBA appreciates previous work by the City to allow up to four units for conversions, and welcomes changes to permit four units for new construction. As stated previously, WE HBA has concerns over the permissiveness of the draft zoning regulations.

- 1) WE HBA would like to request clarification on the position of the City regarding ADUs within Secondary Plan areas. We have heard through our membership that the City is not permitting the use of up to three units per residential lot as was established province wide through Bill 23. While WE HBA disagrees with the City's interpretation of the legislation, we seek to confirm that this change is being made as part of this review.
- 2) A maximum building height of 10.5m (measured to the tallest point of the building) creates difficulty in accommodating a third-floor unit, necessitating lower ceiling heights and impacts on liveability. WE HBA recommends a higher maximum of height of 12.0m to better accommodate third floor units. Such a standard still remains lower than maximum heights in multiple suburban contexts in the western GTA.
- 3) Maximum lot coverage (which applies to buildings only) of 40% plus a minimum landscaped area requirement of 35% (which includes recreational structures such as decks and playgrounds, plus decorative architectural features) in the proposed R1, R1a and R2 zones are difficult to accommodate and will limit the ability for as-of-right redevelopment on smaller sites that represent gentle and appropriate measures to add housing. Small modifications of 45% and 30%, respectively, would improve feasibility while maintaining the intent of the by-law.
- 4) Minimum 3m setbacks from front lot lines, 7.5m setbacks from rear lot lines, 3m setbacks from flankage lot lines, 2m setbacks from side lot lines for R1 and R2 zones, and 1.5m and a minimum aggregate of 3.5m setback for side lot lines in the proposed R1a zones reduce the developable footprint, especially on sites that just meet the threshold for minimum lot area. In more urban areas of the City, where prevailing setbacks are lower, it may be more appropriate to have more flexibility for smaller setbacks such as an aggregate 2.4m setbacks for side lot lines, and consider standards that reflect existing setbacks and streetlines as is done in other municipalities. This will be an effective way to reduce the amount of legal non-conformity created by applying standards reflective of context—and avoids a potential increase of low-value applications to the Committee of Adjustment to support gentle redevelopment on such sites.
- 5) The minimum lot area requirements were developed at a time when households were larger and there was greater need for outdoor space on a private lot. Given the extent of infrastructure already deployed in Hamilton (physical and social such as schools and parks) and fewer residents in some areas, it makes sense to consider a reduction in minimum lot sizes to encourage small lot severances as a form of gentle intensification.

- 6) Triplexes appear to be proposed to be governed under zoning for singles and duplexes, which may similarly cause problems for feasibility and difficulty in accommodating three units within a smaller footprint. There is an opportunity to 1) expand the guidelines to allow duplexes and triplexes to be built within the buildable footprint of the fourplex guidelines as there is not a significant change in density between the two housing typologies or 2) create standards specific to triplexes.
- 7) Waste storage requirements should not be established as part of the zoning by-law. Multiple existing lots simply have no ability to add storage for the City's large size bins and will be caught by this new clause as written if expansions are proposed—especially on sites where zero lot line development is permitted. Flexibility for front yard storage, enclosures and alternative solutions should be at the discretion of the landowner.
- 8) Limitations on rooftop amenities limits the creativity and promotion of outdoor amenity space that our members will be able to provide.
- 9) WE HBA would like to request confirmation that Vacuum Clause 4.12(j) will apply to residentially-zoned lots brought into By-law 05-200—or, better, that the zone standards applying on a particular lot can be those legally existing on the date of passing of the new By-law, to enable rebuilds to existing conditions in keeping with the existing character in a neighbourhood.

## **Neighbourhood Infill Design Guidelines**

WE HBA is concerned about the use of angular planes and setbacks to limit perceived impacts from shadow and overlook when such policies impact the ability of developers to provide needed units. For example, Section 2.2.8 governing transitions states: “When proposing a structure more than one-storey taller in height than surrounding homes, transition the height away from the lower buildings by: a. stepping down the side of the proposed building; b. providing additional step-back of the upper storey(s) along the street; c. providing step-back of the upper storey(s) at the rear (proportionate depth to height); and d. incorporating the upper storey within the roof structure.” In many areas of the city, such as areas with small lots and areas with predominantly bungalows and one-and-a-half storey homes, requirements for stepping down, providing additional step-backs, and incorporating the upper storey within the roof structure will result in builders facing difficulty in providing liveable units, or additional units at all. Combined with a proposed 10.5m height limit and the proposed zoning regulations, the Design Guidelines add unnecessary design challenges, reduce a building's environmental performance, and does not serve to satisfy perceived issues with respect to perceived “overlook”.

WE HBA has concerns about the emphasis of the Design Guidelines on massing, existing built form, height and transitions, and setbacks that place deference to the existing and prevailing patterns of the neighbourhood, to the detriment of potential new units and residents. While WE HBA appreciates the need for sensitivity, WE HBA has concerns that through public processes, the Design Guidelines in their current iteration may be utilized by existing residents to block much needed change in Neighbourhoods. As stated, Hamilton's Neighbourhoods are important for accommodating “a more equitable distribution of growth... across the City”. As the City of Hamilton seeks to accommodate Hamilton's projected growth through an 80% intensification rate, Neighbourhoods will need to change to accommodate higher levels of multiplex development; the proposed zoning and Design Guidelines need to do more to accommodate this change and limit language that privileges privacy and shadow over the housing needs of future residents.

### Mid Rise Residential and Transit Oriented Corridor Zoning

WE HBA appreciates the further opportunity to comment on the Mid Rise Residential Zones, and welcome the City's exploration of expansion of Transit Oriented Corridor (TOC) zones to all areas of the BLAST network. As the City continues to improve transit access, frequency, and reliability, it is important to support ridership through higher density, walkable, mixed-use neighbourhoods along higher-order roads.

The Mid-Rise Residential Zones are welcome in their ability to accommodate further residential intensification on the periphery of Neighbourhoods. WE HBA would like to highlight some areas of the draft zones:

- 1) Minimum setback from a street line of 4.5m for R3 zoning and 3.0m for R3a zoning (increasing to 4.5m above 11m) may not be appropriate in all contexts and may limit developable footprint. 4.5m is too shallow for a parked car and is more than generous to support landscaping. In more urban areas of the City, lower front yard setbacks should be considered to increase density gently and support increased shade through building placement. WE HBA has similar concerns regarding a minimum side yard setback of 3.0m, or 5.5m where windows of a habitable room face an interior side yard.
- 2) The use of an angular plane requirement under Section 15.4.2.1(f)ii) above 11m causes serious concern for the viability of mid-rise construction. Angular planes increase construction costs through the use of transfer beams, result in a loss of units, and are not necessary for reducing perceived impacts on adjacent properties. They also significantly increase the costs to build to Passivhaus design standards and decrease the overall energy performance of buildings (thermal bridging is a significant issue). Many municipalities such as the City of Toronto and the City of Burlington are moving away from angular planes due to negative impacts on streetscapes and in the face of housing supply challenges. We encourage the City to look at other jurisdictions that are moving away from angular plane policies.
- 3) Similar to concern regarding the Low Density Residential zones, the feasibility and viability of projects must be considered in both zoning and design guidelines.
- 4) WE HBA has significant concerns about the requirement for 25% of a building's site to be set aside for landscaping. Builders are challenged on smaller sites to achieve this, and while we understand the concern about stormwater infiltration, landscaping plays only a small role in stormwater management on a site. Sites located in a more urban context may not be able to achieve this requirement.
- 5) WE HBA also recommends the expansion of the draft zone areas to encompass more than simply the properties immediately on the BLAST Corridors. Allowing for the expansion of density further into Neighbourhoods through adjacency to the BLAST Corridors, commercial sites, or sites with a concentration of community amenities or infrastructure will present better opportunities for lot consolidation to provide for better development forms. Mid rise buildings offer an opportunity for the City to explore the concept of density transition zones between higher density corridors and lower density neighbourhoods.



# Together **WE** Build the Future

## Next Steps

WE HBA has outlined concerns regarding zoning for the status quo in Neighbourhoods. Given the growth Hamilton is continuing to experience, paired with an enhanced need for new housing supply, it is imperative to allow flexibility and creativity in the evolution of character for Neighbourhoods. This is especially important given Hamilton's Official Plan policies recognize that Hamilton's Neighbourhoods are stable, but not static and that residential intensification shall be encouraged throughout the entire built-up area. Above all, we wish to emphasize the need to prioritize equitable integration of new developments into existing Neighbourhoods in a way that does not diminish the housing needs of new residents over perceived impacts on existing single detached homes.

WE HBA would appreciate further opportunity to work with the City alongside our members to address implementation issues through real-world examples and to ensure that there is sufficient flexibility and permissiveness to permit feasible and viable multi-unit development as-of-right throughout the Neighbourhood designation. Achieving Hamilton's Housing Pledge of 47,000 units by 2031 and achieving 20,000 approvals by 2026 requires bold actions and completely breaking away from the status quo.

WE HBA looks forward to working with the City further on with a solutions-oriented approach on various issues, including review of permissions within Secondary Plans and the development of High-Rise Residential Zones, and engagement opportunities as they arise.

Sincerely,

**Michelle Diplock, RPP, MCIP, MPI**

Manager of Planning and Government Relations  
West End Home Builders' Association

**Anthony Salemi, BURPI**

Planner, Policy and Government Relations  
West end Home Builders' Association

[westendhba.ca](http://westendhba.ca)



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