

**DATE:** January 16, 2023

**REPORT NO:** PD-03-2023

**SUBJECT:** **Technical Report**  
**Application for Official Plan Amendment and Zoning Bylaw**  
**Amendment Lot 34, Plan M89 Mill Street File No. 1601-013-22**  
**(ZBA) 1701-003-22 (OPA)**

**CONTACT:** Gerrit Boerema, Senior Planner  
Brian Treble, Director of Planning & Building

**OVERVIEW:**

- An application for Official Plan and Zoning Bylaw amendment has been submitted by Mr. Steven Rivers and Olufemi Oyegbami and Stephen Sorinwa for the property located on the north side of Mill Street, being legally described as Lot 34, Plan M89.
- The subject property is 595.2 square metres in area and is currently vacant.
- The subject property is designated as medium density residential in the Township's Official Plan and is zoned low density residential 'R1B'.
- The Official Plan amendment application has been submitted to permit three residential units in the form of street townhouse units to be constructed on the property, with a unit density of 50.4 units per hectare, whereas, the medium density designation only permits a maximum density of 40 units per hectare.
- The zoning bylaw amendment has been requested to rezone the subject property to Residential Medium Density 'RM2' with three site specific exceptions:
  - A reduced minimum lot frontage from 6 metres to 5.8 metres for the middle unit.
  - A reduced minimum interior side yard for the easterly unit from 3 metres to 1 metre, although 1.2 metre is the setback shown on the site plan.
  - An increased maximum garage width from 50% of the lot frontage to 63% of the lot frontage for the westerly unit.
  - Staff have also identified that there is a deficient lot area for the middle unit.
- If approved, this development would result in a three unit street townhouse that would then be severed through the Committee of Adjustment into three freehold lots.
- Township Staff have completed a preliminary review of the applications and recommend that a Recommendation report be prepared and presented at a future Planning/ Building/Environment Committee Meeting once all agency and public comments have been received and staff complete their full review.

## OVERVIEW:

- Township Staff have completed a preliminary review of the applications and recommend that a Recommendation report be prepared and presented at a future Planning/ Building/Environment Committee Meeting once all agency and public comments have been received and staff have completed their full review, to maintain the legislated 90 day review and approval timeline applicable in the *Planning Act* and Bill 109.
- From the date of complete application, being November 21, 2022, 120 days would result in a decision having to be made by March 28, 2023.

## RECOMMENDATION:

1. That Report PD-03-2023, regarding “Technical Report – Application for Official Plan and Zoning Bylaw Amendment, Lot 34, Plan M89 Mill Street File No. 1601-013-22 (ZBA) 1701-003-22 (OPA)”, dated January 16, 2023, be RECEIVED; and,
2. That, a Recommendation Report be presented at a future Planning/Building/Environmental Committee Meeting following the review of all agency and public comments and a full review of the planning applications.

## ALIGNMENT TO STRATEGIC PLAN:

### Theme #3

- **Strategic Responsible Growth**

## BACKGROUND:

An application to amend the Township’s Official Plan and the Township’s Zoning Bylaw, 2017-70, as amended, has been submitted by Mr. Steven Rivers of South Coast Consulting, and the property owners, Mr. Olufemi Oyegbami, and Mr. Stephen Sorinwa. The subject property is located on the north side of Mill Street in the cul-de-sac and is currently vacant and without a municipal address. The property is legally described as Lot 34, Plan M89. A location map can be found within Attachment 1.

The applicants have submitted these applications in order to develop the property into three street townhouse units which they plan to sever through a future consent application following construction. The street townhouse units are proposed to be three storeys in height, or 11 metres to the mid-point of the peak, with private garages located on the ground floor.

A sanitary sewer easement that provides servicing for a number of properties to the north bisects the property in behind the proposed townhouse in the developments rear yard.

The subject property is 595.2 square metres and is currently designated in the Township’s Official Plan as Medium Density Residential. The medium density residential designation permits a variety of residential built forms, including townhouses. The maximum density for medium density residential development is 40 units per hectare, which on this property would limit the development to two units. The applicants are requesting a density of 50.4 units per hectare to permit three units and therefore an Official Plan Amendment is required.

Additionally, the applicants are requesting to amend the zoning on the subject property from Low Density Residential 'R1B', which does not permit townhouses, to Residential Medium Density 'RM2', with three site specific exceptions, which would allow for street townhouses. A fourth exception needed for lot area has been identified by staff.

If the amendments are approved, the applicants would additionally be required to apply for a development agreement to regulate the development and the connection to services for the site, and a severance application to split the three unit townhouse into three individual lots.

### **CURRENT SITUATION:**

The Planning Department has completed a preliminary review of this application against the applicable provincial, regional and local planning policies. The summary of this review can be found below:

#### **Provincial Policy Statement, 2020**

The Provincial Policy Statement provides policy direction on matters of provincial interest related to land use planning and development. The Provincial Policy Statement (PPS) provides the policy foundation for regulating the development and use of land with the goal of enhancing the quality of life for all Ontarians. Section 1.1.3 of the PPS provides specific policy in regards to Settlement Areas, which the subject property is designated in the PPS. Settlement areas include both urban and rural settlement areas and are to be the focus of growth and development. Land-use patterns within settlement areas shall be based on densities and a mix of land uses which efficiently use land, resources, infrastructure and public service facilities and avoids the need for unjustified and/or uneconomical expansions.

Appropriate development standards should be promoted which facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety. Planning authorities shall also establish and implement minimum targets for intensification and redevelopment within built-up areas based on local conditions. The subject property is located within the designated built-up area and the Township's intensification target for 2021-2051 is 13% or 1,130 units (38 units per year on average). Intensification and redevelopment help reduce urban sprawl over agricultural lands through increasing the population density within the existing built area.

The subject property is located within the urban settlement area of Smithville, within the built-up area and therefore contributes to the 13% intensification target and would make use of existing infrastructure. The Township Public Works Department will play an important role in intensification and redevelopment ensuring that existing infrastructure has capacity to handle the additional flows.

#### **A Place to Grow, Growth Plan for the Greater Golden Horseshoe – 2020 Consolidation**

The A Place to Grow – Growth Plan for the Greater Golden Horseshoe (Growth Plan) builds on the Provincial Policy Statement to establish a unique land use planning

framework for the Greater Golden Horseshoe that supports the achievement of complete communities, a thriving economy, a clean and healthy environment and social equality. The policy document specifically guides how and where to grow communities, how to support growth while protecting what is valuable, such as the natural environment and agricultural lands.

One of the key themes within the Growth Plan is the importance of establishing and achieving the minimum intensification targets within the Province. Intensification is defined in the Growth Plan as “the development of a property, site or area at a higher density than currently existing through; a) redevelopment including the reuse of brownfield sites; b) the development of vacant and/or underutilized lots within previously developed areas’ c) infill development; and the expansion or conversion of existing buildings.”

Section 2.2.2 of the Growth Plan specifically requires municipalities to develop intensification strategies within the delineated built-up area, ensuring that lands are zoned and designed in a manner that supports the achievement of complete communities. The Delineated Built-up area is a fixed line that reflects what was built and on the ground when the initial Growth Plan came into effect in June 2006. Planning and investment should prioritize infrastructure and public service facilities that support intensification.

### **Greenbelt Plan**

The subject property is not located within lands designated as being within the Greenbelt and therefore the PPS and Growth Plan are the only provincial policy plans that apply. The Township of West Lincoln only has approximately 360 hectares of land designated as Greenbelt north of Young Street and east of Thirty Road.

### **Niagara Official Plan, 2022**

On November 4, 2022 the Ministry of Municipal Affairs and Housing approved the Niagara Official Plan. The plan provides a framework of policies to guide growth and development within the Niagara Region to the year 2051.

The new Niagara Official Plan has the subject lands designated as being within the settlement area of Smithville and within the Delineated Built-Up Area. In the Niagara Official Plan, the Township of West Lincoln has been assigned a minimum residential intensification target of 13% or 1,130 units to the year 2051, which are units that are to be located within the Delineated Built-Up Area. The subject lands are within the Delineated Built-Up Area and as the property is currently vacant, would be considered an intensification opportunity and would support the Township’s overall intensification target.

The Niagara Official Plan provides additional policies with regards to housing in Section 2.3 of the Plan. The objects of the plan are to provide a mix of housing options to address current and future needs, provide more affordable and attainable housing options within our communities, and to achieve affordable housing targets through land use and financial incentive tools. This application would contribute to the overall intensification target established by the Niagara Official Plan.

## **Township of West Lincoln Official Plan**

The Township of West Lincoln Official Plan has the subject property designated as Medium Density Residential. Policies with respect to the Medium Density Residential designation are found in Section 6.3 of the Township's Official Plan. Within the Medium density designation permitted uses include townhouses and other forms of multiple ground related housing, low-rise apartment buildings and accessory apartments, amongst other uses.

Medium Density residential buildings shall not exceed a height of three storeys where there is no secondary plan approved, and shall also achieve a gross density of 20 – 40 units per hectare. Infill development may be considered at a lower density and height standards. Finally, all medium density residential development shall be subject to site plan control and shall conform to the Township's urban design guidelines (6.3.3 e.). Although the Province has approved changes to the *Planning Act* which would exempt the proposed three unit townhouse development from site plan and urban design approval, our Official Plan has not been updated to reflect these changes at this time.

The Township Official Plan also has policy with respect to Infill Development (Section 6.6.4) and Development Criteria for Townhouses (Section 6.6.6). The fundamental principle for infill development is to avoid and mitigate any inappropriate interface between buildings and/or uses. New infill development shall be compatible with existing and planned developments and shall specifically provide similar height, lot coverage, setbacks and built form with adjacent lands and development. Infill development shall have limited garage widths so that the dwelling(s) reflect the character and façade of the adjacent housing. Finally, infill developments should incorporate a transition area where possible to single and semi-detached lots. Overall, compatibility shall be prioritized over intensification.

Townhouse development criteria found in Section 6.6.6 provides additional policy requiring that the design of the townhouse dwelling complex be compatible with surrounding development.

The proposal for three townhouse units exceeds the maximum gross density permitted within the Medium Density Designation, but is within the height limitation of three storeys. The applicants are also requesting wider garages than permitted in the zoning bylaw, which needs to be further reviewed in relation to the Official Plan policy in regards to ensuring garages are not the dominate feature of the façade of the dwellings.



The subject property is located in an area that has both existing low and medium density land uses. There are two single detached dwellings to the north and east of the subject lands. Both the dwellings are two storey and are located at a slightly higher elevation than the subject property. To the west there is an existing medium density condominium complex with two main buildings which are both two storeys and are also at a slightly higher elevation than the subject property. The buildings are oriented in an east-west direction and are situated closer to Mill Street, with vehicle access and parking off of Regional Road 20. To the south is the Hank MacDonald Park, a Township park primarily used for gardening by the local gardening club. To the south east is the Legion Villa complex, which is considered an Institutional use, and to the south west are more single detached dwellings.



Staff note that a major aspect of the Official Plan policy and Urban Design Guidelines is to have a built form that is compatible with adjacent built forms and the streetscapes. Township staff note that the Planning Justification Report speaks at a very high level about the urban design creating a favourable streetscape, however, staff are not satisfied that this provides enough rational to argue that it is compatible with adjacent built forms. The design of the townhouse appears to be more modern, and staff want to ensure that it is compatible with the mostly established neighbourhood.

Staff also reviewed the official plan and zoning amendment with Official Plan Amendment No. 63, which has been approved by Township Council but is waiting Regional approval. Official Plan Amendment No. 63 maintains the maximum gross density of 40 units per hectare for the medium density designation and the 3 storey height limitation.



Staff will continue to review the application to determine if it is compatible with the character of the surrounding neighbourhood and in alignment with the Township's Urban Design Standards.

### Township of West Lincoln Zoning Bylaw, 2017-70

The subject property is currently zoned Residential Low Density 'R1B'. The 'R1B' zone only permits single detached dwellings as a principle use, with a number of permitted accessory units. It does not permit townhouse development and therefore the applicants have requested a zoning amendment to a Residential Medium Density 'RM2' zone, with three special site specific modifications requested, however staff have identified a fourth regarding lot area.

The Residential Medium Density 'RM2' zone permits Street Townhouse units, among other types of multiple unit residential built forms. As the property is designated in the Township's Official Plan as Medium Density Residential, a zoning change to a medium density zone would be in alignment with the Official Plan.

The development proposes that once construction has been initiated, the townhouse development would be severed to create a total of three lots. The zoning comparison table below is based on the proposal and the future severance.

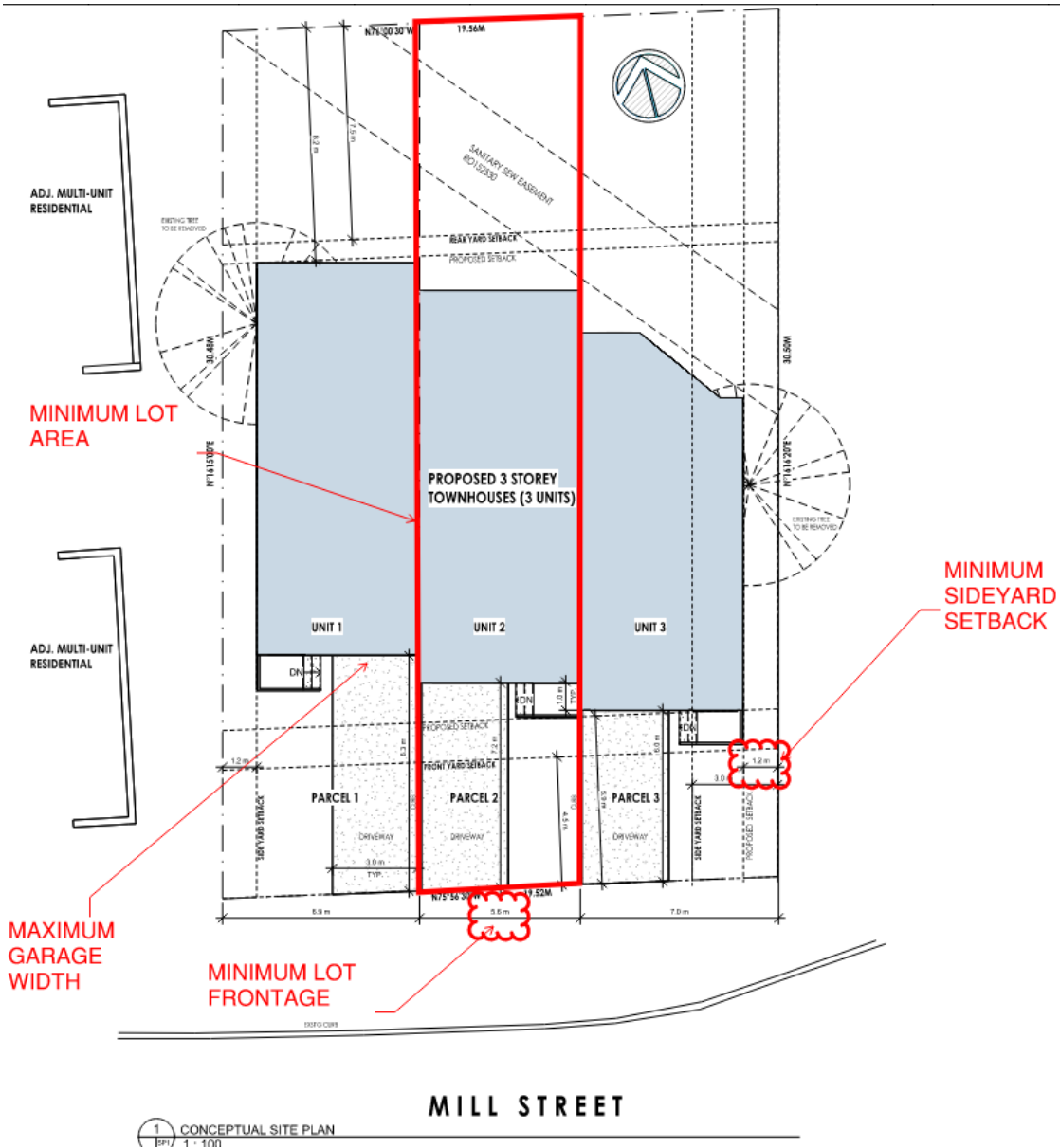
	Min Lot Area	Min Lot Frontage	Min Front Yard	Min Interior side yard (East)	Min Interior side yard (West)	Min Rear Yard	Max Lot coverage	Max Height	Min Amenity Area
RM2 Requirement	180 m <sup>2</sup>	6m/ unit	4.5m dwelling 6m garage	3m	1.2m	7.5m	50%	12m	20 m <sup>2</sup> / unit
Proposed Unit 1	210.9 m <sup>2</sup>	6.9m	8.3m	1.2m	N/A	8.2m	38.9%	11m	49.0%
Proposed Unit 2	171.1 m <sup>2</sup>	5.6m	7.2m	N/A	N/A	>8.2m	47.1%	11m	39.7%
Proposed Unit 3	211.3 m <sup>2</sup>	7.0m	6m	N/A	1.2m	>8.2m	35%	11m	56.4%

	Min Parking Space	Max Garage Width	Max Driveway Width						
RM2 Requirement	1.75 space/ unit	50% of façade to max. 9.2m	60% of frontage to max. 7.5 m						
Proposed Unit 1	2 spaces/ Unit*	63%	Unknown**						
Proposed Unit 2	2 spaces/ Unit*	50%	Unknown**						
Proposed Unit 3	2 spaces/ Unit*	50%	Unknown**						

\*Township Staff need confirmation that the garage is appropriately sized to accommodate the minimum dimensions of open floor area to be considered a parking space.

\*\* Width of driveway is not known as it is not shown on sketch.





In addition to the variances requested, staff have identified one more modification needed for proposed unit 2 as the middle lot would only have a lot area of 171.1 square metres, whereas a lot area of 180 square metres is required. The applicant will need to request this to be added to the amendment or ensure that the lot area complies at time of severance.

Staff also wish to seek clarification on the height of the building, as the elevation drawings shown appear to show the centre townhouse unit being higher than 11 metres, as marked. The maximum height in the RM2 zone is 12 metres.

## Recent changes to the *Planning Act* – Bill 23

These applications have been received during a time of transition where new legislation from the Province, namely Bill 23, the *More Homes Built Faster Act*, has received Royal Assent. Two of the *Planning Act* changes that need to be addressed with respect to this application is the ‘as of right’ permissions for up to three units on a residential lot, and the ability to require site plan approval.

Bill 23 specifically permits landowners to add up to three residential units “as of right” for land zoned for one home in residential areas without requiring a zoning by-law amendment. This is an important consideration now when considering servicing and the impact on local servicing.

Bill 23, with the goal of streamlining site plan control and increasing housing supply has remove site plan control requirements for most residential projects with fewer than 10 residential units. It is important to note that building permits and building/fire code requirements continue to apply to protect public safety. In addition, amendments to the *Planning Act* impose limits on a municipalities’ authority to dictate a building’s exterior design, including character, scale, appearance and design, except to the extent that it is a matter relating to exterior access to a building that will contain affordable housing units. Bill 23 has removed the Township’s ability to require site plan control in this instance, but Township staff are of the opinion that a Development Agreement can still be requested and required, in order to ensure that the development is done in accordance with the Township’s standards. Urban design does not appear to be an element that can be regulated through the Development Agreement process.

## FINANCIAL IMPLICATIONS:

There are no financial implications associated with this report except for the potential implications associated with Bill 109, the *More Homes for Everyone Act, 2022*. Bill 109 requires municipalities, starting on July 1<sup>st</sup>, 2023, to provide fee refunds for *Planning Act* applications if decisions are not made within the required *Planning Act* timelines.

The timelines for approval and required fee returns associated with this will require Township Staff to prepare recommendations on a quicker timeline for Council’s decisions. Council must make a decision within 120 days of complete application or they will be required to refund.

	<b>Zoning and Official Plan Combined</b>	<b>Zoning Bylaw Amendment</b>	<b>Site Plan</b>
No refund	Decision is made within 120 days	Decision is made within 90 days	Plans are approve within 60 days
50%	Decision made within 121-179 days	Decision made within 91-149 days	Plans are approved between 61-89 days
75%	Decision made within 180 – 239 days	Decision made within 150 – 209 days	Plans are approved 9 – 119 days
100%	Decision made 240 days and later	Decision made 210 days and later	Plans are approved 120 days and beyond

The current 2023 fee for the combined official plan and zoning bylaw amendment is \$11,940.00. If not approved within 120 days, starting on July 1<sup>st</sup>, 2023 the Township would be required to refund the applicant \$5,970.00, at 180 days, \$8,955.00 and after 240 days, the entire fee.

### **INTER-DEPARTMENTAL AND PUBLIC COMMENTS:**

Notice for the Official Plan and Zoning Bylaw Amendment applications was circulated to departments, agencies and members of the public on December 14, 2022. Additionally, a yellow sign was posted on the subject property on December 22<sup>nd</sup>, 2022. At the time of writing this report the Township has not received any comments from members of the public.

The Township has received comments from the Township Public Works Department indicating that they have no objection to the proposed zoning amendment and official plan amendment.

The Region of Niagara has provided comments on the subject applications. They note in their comments that they do not object to the application, however, they note that issues regarding compatibility and interface are a local responsibility and not something that is commented on by the Region. The Region also notes that this application for Official Plan Amendment is exempt from Regional Approval.

The Niagara Peninsula Conservation Authority has not provided any comments as there are no regulated features on the subject lands.

### **CONCLUSION:**

An application for Official Plan Amendment and Zoning Bylaw Amendment has been submitted for a vacant property on Mill Street with a legal description of Lot 34, Plan M89. The Official Plan Amendment has been submitted to increase the unit density of the medium density designation to 50.4 units per hectare, whereas the Township Official Plan only permits a maximum unit density of 40 units per hectare. This would allow for a third townhouse unit to be constructed on the subject property.

The zoning amendment application has been submitted to change the zoning on the property from a low density residential zone to a medium density residential zone with a total of four site specific variances to allow for reduced setbacks, reduced lot frontage and an increase to the permitted garage width.

Staff will continue to collect public and agency comments and review the application. Staff recommend that a recommendation report be prepared and presented to a future Planning Committee Meeting once a full staff and agency review has been completed within the 90 day timeframe for approval under the *Planning Act* and Bill 109.

A final note for consideration are the *Planning Act* changes that have been made through Bill 109, the *More Homes for Everyone Act, 2022* requiring zoning amendments be decided upon within 90 days or face punitive costs back to the applicant starting on July 1<sup>st</sup>, 2023.

In order to avoid these fee returns, staff will be required to prepare recommendation reports within the required timeframe that potentially recommend:

1. Approval, subject to a holding provision,
2. Approval of application as submitted,
3. Approval of staff modified application
4. Denial

Staff will continue to work with the applicants, members of the Public and Committee and Council while meeting these tight timelines for decisions.

**ATTACHMENTS:**

1. Location Map
2. Planning Justification Report
3. Draft Site Plan and Elevations
4. Survey Sketch
5. Agency Comments

**Prepared & Submitted by:**



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**Gerrit Boerema, MCIP, RPP**  
**Senior Planner**

**Approved by:**



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**Bev Hendry**  
**CAO**



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**Brian Treble, MCIP, RPP**  
**Director of Planning & Building**