

## Staff Report

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**Report To:** City Council  
**Report From:** Sabine Robart, Planner  
**Meeting Date:** July 19, 2021  
**Report Code:** CS-21-107  
**Subject:** Recommendation Report – ZBA 33 Sydenham Heights  
Centre at 1960 16th Street East by Thompson Centres Inc.

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### Recommendations:

THAT in consideration of Staff Report CS-21-107 respecting Zoning By-law Amendment No. 33 at 1960 16<sup>th</sup> Street East, proposing a multi-unit commercial development, City Council:

1. Finds that the application is consistent with the Provincial Policy Statement and the goals and objectives and intent of the City's Official Plan and in consideration of the staff recommendations and the written and oral submissions made; and
2. Directs staff to bring forward a by-law to adopt Amendment No. 33 to the City's Zoning By-law No. 2010-078 and give notice in accordance with Section 34 of the *Planning Act*.

### Highlights:

- Zoning By-law Amendment No. 33 applies to permit a multi-unit commercial development, including a mix of restaurants and retail/service commercial uses, tentatively contained in four (4) detached buildings.
- Official Plan policies require a market analysis/study to demonstrate the need for the proposed development and the impact of the proposed use on the commercial structure of the City and the Region. A peer review of the submitted Retail Impact Study has been completed and

the results of the review are favourable and have been incorporated into the proposed amendment.

- Staff recommend approval of the application.

## **Strategic Plan Alignment:**

Legislated review process.

Strategic Priority: A City that Grows – KR3 – Increase active employment gross floor area by 25,000 square feet each fiscal year.

## **Background & Proposal:**

A complete application for a Zoning By-law Amendment (ZBA 33) has been submitted by Thompson Centres Inc. (Lou Meandro), for a multi-unit commercial development at 1960 16<sup>th</sup> St E.

## **Property Description**

The subject property is located on the northwest corner of the of 16<sup>th</sup> St E, and 20<sup>th</sup> Ave E intersection in the City's east city commercial area.

Surrounding land uses include:

North: industrial (former Tenneco site) & vacant industrial lands

East: vacant lands

South: multi-unit commercial (Heritage Grove development)

West: commercial, light industrial

The subject lands are designated 'East City Commercial' in the City's Official Plan (2006) and are zoned 'General Industrial' (M1) with Special Provision 14.88 in the City's Zoning By-law (2010-078, as amended).

For location context and surrounding land uses, please see the Orthophoto in Schedule 'A'. For the planning policy context, please see the Official Plan and Zoning Map in Schedule 'B'.

## **The Proposal**

The applicant is proposing a multi-unit commercial development, including a mix of restaurants and retail/service commercial uses, tentatively contained in four (4) detached buildings. The proposed rezoning would facilitate the construction of a shared surface parking area, internal road system, landscaping and the extension of 20th Avenue East north of 16th Street East.

A Site Plan Approval application has not been submitted at this time but is anticipated in the coming weeks.

The effect of the application is to amend the Zoning By-law from 'General Industrial' (M1) with Special Provision 14.88 to apply the 'Retail Commercial' (C2) zone provisions to the subject property and to provide for site specific zone regulations regarding minimum and maximum restaurant gross floor areas as well as relief from certain C2 site and building regulations.

### **Submission & Process Details**

As part of a complete application, the applicant has submitted the following materials for consideration:

<b>Submission Item Title</b>	<b>Submission Item Detail</b>
Concept Plan	Prepared by Greystone dated April 27, 2020
Geotechnical Investigation	Prepared by Paterson Group Inc. dated October 19, 2020
Retail Impact Study for Sydenham Heights Centre, Owen Sound	Prepared J.C. Williams Group dated December 9, 2020
Sydenham Heights Centre Servicing Feasibility Study	Prepared by Tatham Engineering Ltd. dated December 18, 2020
Planning Report	Prepared by Cuesta Planning Consultants Inc. dated January 2021
Stage 1 & 2 Archaeological Assessment	Prepared by Scarlett Janusas Archaeology Inc. dated October 31, 2020 & November 25, 2020
Survey	Prepared by Dinsmore & England Ltd. dated March 2, 2020

The applicant engaged the City in the pre-consultation process in June 2020. Subsequently, the process relating to the formal application has proceeded as follows:

<b>Date</b>	<b>Step</b>
January 13, 2021	Submission of complete application and fees

<b>Date</b>	<b>Step</b>
February 3, 2021	Letter of Complete Application to Applicant
February 5, 2021	Notice of Complete Application given to public via newspaper notice and mailed courtesy notice to landowners within 120 m of subject property
February 5, 2021	Request for City Staff and Agency comments sent
March 5, 2021	Notice of Public Meeting given to public via newspaper notice and mailed courtesy notice to landowners within 120 m of subject property
March 29, 2021	Public Meeting
July 19, 2021	Recommendation Report to Council

## **Analysis:**

The subject proposal is required to meet all development standards and policies applicable to projects within the City of Owen Sound. The proposal is required to be consistent with the Provincial Policy Statement and in conformity with the City Official Plan and the general intent and purpose of the Zoning By-law. The application is subject to review by City Planning, Engineering and Building Staff, as well as external commenting agencies. All applicable policies, standards, and review comments are reviewed below in the context of the subject application.

## **Provincial Policy Statement**

The Provincial Policy Statement (PPS) has been reviewed with regard to the subject application. Municipal decisions on planning matters are required to be consistent with the PPS.

The PPS Vision for the long-term prosperity and social well-being of Ontario focuses growth and development within settlement areas and recognizes that land use must be carefully managed. Strong, liveable and healthy communities promote and enhance human health and social well-being, are economically and environmentally sound, and are resilient to climate change.

The PPS directs development to full serviced, designated settlement areas and requires contiguous development that minimizes land consumption and servicing costs. The proposal achieves these requirements by virtue of being

within a designated growth area in the City, having access to full municipal services, and being contiguous to existing development. The proposal is considered greenfield, infill development

The PPS requires planning authorities to promote economic development and competitiveness by providing for an appropriate mix and range of employment, institutional, and broader mixed uses to meet long-term needs of the municipality. Downtowns are to be maintained, and where possible, the vitality and viability of the downtown and main streets are to be enhanced. The direction of the PPS is implemented in the City's 2006 OP Sec. 4.4.2.9 and is discussed in greater detail below.

The retail impact study and peer review process has resulted in a recommendation for minimum and maximum floor area provisions for restaurants to be applied to the subject property in order to protect the restaurant component of the City's downtown commercial function. Through extensive discussion between City Staff, the City's Peer Review Consultant and the applicant, acceptable GFAs dedicated to new restaurant uses permitted on site have been determined, which protects the intended function of the Downtown/River District. The proposal adds to the City's mix and range of commercial services.

The proposal is consistent with the direction provided by the PPS.

### **County of Grey Official Plan**

The subject property is designated 'Primary Settlement Area' in the 2019 County of Grey Official Plan (County OP). Settlement areas with full municipal services are to be the focus of the majority of growth within the County.

The County OP promotes a full range of residential, commercial, industrial, recreational, and institutional land uses within Primary Settlement Area. Land use policies and development standards are to be in accordance with the local Official Plan. The County has been consulted on the proposal and County staff have no objection to the application.

The proposal conforms to the policies of the County's Official Plan.

### **City of Owen Sound Official Plan**

The subject property is designated 'East City Commercial' in the 2006 Owen Sound Official Plan (OP).

The East City Commercial designation identifies lands in the east part of the City that are the main eastern entrance to the City and is a key element in the image of the City. The main function of the designation is to accommodate large format retail uses requiring relatively large sites. These sites serve as a regional destination and may include single or multi-purpose sites. Permitted uses in the designation include:

- Large format retail and service commercial uses (4.4.1.1 a).
- Smaller scale retail, service commercial and personal uses, financial institutions and services, business, professional and medical offices, restaurants, entertainment and community facilities in support of the retail and service commercial uses (4.4.1.1 b).

The proposed development will constitute a multi-purpose site which will include the uses listed in 4.4.1.1.b.

The subject property is currently zoned as General Industrial (M1) with special provisions that permit a vehicle sales establishment. The proposed uses are not permitted in the M1 Zone and a zoning amendment is required to permit the proposed retail, commercial and restaurant uses. Sec. 4.4.2.9 of the OP applies when a rezoning application is received within the East City Commercial designation for a commercial use. Sec. 4.4.2.9 stipulates that the applicant is required to provide a market analysis/study to demonstrate the need for the proposed development and the impact of the proposed use on the commercial structure of the City and the Region, including all commercial areas within and close to the City. Sec. 4.4.2.9 stipulates that the study shall confirm that:

- i. Designated commercial property, suitable for the intended scale and type of development is not available within the Downtown Area.
- ii. Available commercial property in the Downtown is not economically viable for the intended scale and type of development.
- iii. The proposed increase in commercial floor space will not be premature by increasing the amount of commercial floor space in the City beyond the 5-year market demand.
- iv. The proposed development will not undermine the economic viability or planned function of a significant commercial component of the Downtown or impair the function of a designated commercial district as identified in this Plan.

Through the pre-consultation process, the developer was made aware of the submission requirements including a Terms of Reference for the market impact study and the peer review process. As part of a complete application, a retail impact study in support of the proposed development was submitted. A peer review by MHBC Planning Consultants (Tate Economic Research) was completed.

The following provides a summary of the peer review findings of the Retail Impact Study for Sydenham Heights Centre completed by J.C. Williams Group (dated December 9, 2020) as described in the Peer Review by MHBC (dated March 19, 2021):

- The peer review concurred that the proposed development is aligned with the vision for the East City Commercial area.
- The peer review concurred with the JCWG findings that it is [appropriate] to permit the Sydenham Heights Centre, as proposed from a retail market perspective.
- The peer review agreed that based on the inventory provided by JCWG, the amount of restaurant space in the Downtown has declined. However, restaurants remain an important component of the Downtown.
- The peer review concluded with the recommendation that the City use caution in proceeding with the extent of restaurant space proposed at the Site.

As a result of the peer review, the applicant provided additional information and analysis of the downtown restaurant scenario (JCWG May 4, 2021 & Cuesta May 7, 2021). A number of discussions between the applicant and their consulting team, the City's peer reviewer and City staff followed the provision of the additional information.

At the conclusion of the peer review process, the peer review team proposed a set of site-specific provisions that addresses the restaurant numbers/GFA on site. OP policies in the East City Commercial designation enable Council to limit the minimum and maximum gross floor area of any permitted use through the City's Zoning By-law to sustain the planned function of the River District area. The site-specific provisions were accepted by the applicant and are as follows:

- The total gross floor area for all restaurants, including drive thru restaurants, shall not exceed 50% of the total gross floor area on the site.
- The minimum unit size for restaurants shall be 325 square metres, excluding drive thru restaurants.
- Notwithstanding the minimum restaurant unit size, restaurants (excluding drive thru restaurants) less than 325 square metres may be permitted to a maximum aggregate gross floor area not to exceed 464 square metres.

The site-specific provisions in regard to restaurant GFA are anticipated to ensure that the restaurants on site will not develop into restaurant node that will impact the economic viability or planned function of a significant commercial component of the Downtown or impair the function of a designated commercial district as required by Section 4.4.2.9.

The proposed provisions for restaurants reflect the site-specific provisions that were implemented through a Zoning By-law amendment process in 2019 at the Heritage Grove site located on the southeast corner of the 16<sup>th</sup> St E and 20<sup>th</sup> Ave E intersection.

In addition to the market impact study, OP policies require that the application provide an assessment of the traffic, land use, ecological, cultural heritage, and servicing impacts of the proposed use, including recommended infrastructure improvements necessary to facilitate the development. As noted above, the applicant has provided supporting studies as specified through the pre-consultation process.

In accordance with the OP, the submitted Servicing Feasibility Study has demonstrated that the proposed development can be supported by existing service capacity. Detailed design information regarding on-site stormwater management, traffic, servicing design (including road & sidewalk construction, water & sanitary sewer connections, etc.) and urban design elements such as building elevations and landscaping will be received and reviewed through the Site Plan Approval process. Based on communications with the developer, a Site Plan Approval application is expected over the course of the summer.

The OP requires the study and protection of any cultural heritage resources that may be impacted by a development. Accordingly, Stage 1 and 2



Archaeological Assessments have been completed and indicate that no archaeological resources have been found or are likely to be found on site. A letter from the Ministry of Heritage, Sport, Tourism and Culture Industries confirms acceptance and entry of the reports into the Ontario Public Register of Archaeological Reports. Staff are satisfied that the proposal will have no impact on any cultural heritage resources.

In the interest of ecological impact review, the applicant has completed a tree survey for the purposes of identifying any sizes or species of trees warranting protection and/or replacement. The survey did not find any species at risk on site. Further, the survey concluded that the vegetation on site was predominated by ash and poplar, and that protection wasn't warranted. Comments from the Grey Sable Conservation Authority indicate that the proposed development is not anticipated to have ecological impacts as the proposed Zoning By-law Amendment /development does not impact any areas regulated under Ontario Regulation 151/06, natural hazards and/or significant natural heritage features. The site will be fully landscaped with trees from the City's Tree Selection List during the construction process and as planned and approved through the Site Plan Approval process.

The proposal conforms to the policies of the City's Official Plan.

### **City of Owen Sound Zoning By-law**

The subject property is zoned 'General Industrial' (M1) and is subject to Special Provision 14.88 in the City's Zoning By-law (2010-078, as amended). Permitted uses in the M1 zone include a wide range of light industrial type uses. The site-specific provisions permit a vehicle sales establishment in addition to the uses permitted in the M1 zone. The M1 zone does not permit restaurants or any type of commercial, personal service or retail uses.

The purpose of the application is to amend the Zoning By-law from 'General Industrial' (M1) with Special Provision 14.88 to apply the 'Retail Commercial' (C2) zone provisions to the subject property and to provide for site specific zone regulations regarding minimum and maximum restaurant gross floor area provisions as well as relief from certain C2 zone provisions. The effect of the application is to facilitate the construction of a multi-unit commercial development, including a mix of restaurants and retail/service commercial uses, tentatively contained in four (4) detached buildings.

The C2 zone permits commercial uses, offices, personal service uses, restaurants (including drive through restaurants) and retail stores among

other uses.

As discussed in the OP section above, the proposed amendment will implement the conclusions of the market retail impact study and the peer review process. Planning staff recommend that, notwithstanding the C2 zone provisions, restaurants on site shall be subject to the following site-specific special provisions:

- The total gross floor area for all restaurants, including drive thru restaurants, shall not exceed 50% of the total gross floor area on the site.
- The minimum unit size for restaurants shall be 325 square metres, excluding drive thru restaurants.
- Notwithstanding the minimum restaurant unit size, restaurants (excluding drive thru restaurants) less than 325 square metres may be permitted to a maximum aggregate gross floor area not to exceed 464 square metres.

The proposed gross floor area caps are consistent in purpose and effect as the Special Provision (14.89) applying to the lands at 2125 16<sup>th</sup> St E containing the Heritage Grove Commercial Development. The City's Peer Review Consultant was satisfied that the abovementioned caps implement the direction of the OP. Planning Staff is satisfied that the proposed gross floor area caps maintain the general intent and purpose of the City's Zoning By-law.

The amendment is also requesting site specific relief from: the required front yard setback, the required number of queuing spaces and the required number of parking spaces.

The extension of 20<sup>th</sup> Ave E north of 16<sup>th</sup> St will create a lot abutting a street on three sides (16<sup>th</sup> St, E, 20<sup>th</sup> Ave E and 17<sup>th</sup> St E). The Zoning By-law states that in the case of a corner lot where there are three abutting streets the front lot line shall be deemed to be the lot line where the face of the building is intended to be the front. In this case, the buildings will front/face 16<sup>th</sup> St E and therefore the 16<sup>th</sup> St E lot line is the front lot line. This is despite the fact that the site will have no entrances directly onto 16<sup>th</sup> St E.

The first site specific amendment proposed is for required front yard setback. The required front yard setback in the C2 zone is 10.0 m. The provided front yard setback is 8.0 m for Building B. A reduction of 2.0 m is requested from

16<sup>th</sup> St E, being the front lot line. The reduced front yard is reflective of the building setback/streetscape as established on the east side of 16<sup>th</sup> St W and is appropriate for a commercial (rather than light industrial) streetscape. The front yard as proposed will provide some greenspace/landscaping between the road and the buildings and allow access to the front of the building for maintenance.

The second site specific amendment proposed is for minimum number of drive thru queuing spaces for Building A. At this time, Building A is proposed as a drive thru restaurant with a total 10 queuing spaces (nine (9) queuing spaces and one (1) space at the pickup window). Section 5.21.1 of the Zoning By-law requires a total of 12 spaces (11 queuing spaces and one (1) space at the pickup window). The application is proposing a reduction of two (2) queuing spaces. The shortened queuing lane is not anticipated to impact the safe functioning of the site. It is possible that Building A will be tenanted by a permitted use other than a restaurant. The queuing requirement for restaurants is the highest required, which means that any other permitted use having 10 queuing spaces would comply with the Zoning By-law as-of-right.

The third and final site-specific amendment proposed is to address a minor parking reduction requested on site. The proposed development meets the definition of a 'Shopping Centre', being a building or group of buildings containing a group of permitted commercial uses which is planned, designed and developed as a unit. The Zoning By-law provides a parking ratio for the 'Shopping Centre' which requires 107 parking spaces based on 2025 square meters for floor area. The application is proposing 105 parking spaces. A reduction of two parking spaces is minor and not anticipated to impact the ability of the site to function safely and efficiently.

All other zone provisions are met or exceeded.

The proposal meets the general intent and purpose of the City's Zoning By-law.

### **City Staff & Agency Comments**

In response to the request for comment from the Planning & Heritage Division, the following comments have been submitted for review pertaining to the subject application. All comments can be found attached hereto as Schedule 'G'.

## City of Owen Sound Engineering & Public Works Department

Comment has been received from the City's Engineering & Public Works Department with no objection to the subject proposal.

Engineering Detail	Staff Comments
Stormwater Management (SWM)	A stormwater management plan to the City's standards is required as a component of site plan approval. The proposed SWM strategy will control site runoff to pre-development levels. A Stormceptor EFB OGI unit will provide water quality treatment to enhanced, Level 1 criteria.
Servicing Feasibility Study	A Servicing Feasibility Study has been submitted in support of this development. The study demonstrates that the proposed development can be supported by existing service capacity.
Site Access	Site access will be provided from the proposed extension of 20 <sup>th</sup> Avenue East, as well as 17 <sup>th</sup> Street East. Construction of a portion of 20th Avenue East will be required to provide access to the site.
Road Allowance Widening	This development is bounded by 17 <sup>th</sup> Street East, a designated Future Collector Road on the north side requiring a minimum 25m wide road allowance, 16th Street East, a designated Arterial / Connecting Link Road on the southside and by the future extension of 20th Avenue East, a designated future Collector road on the east side. To achieve the required road allowance width, a 3.0m road allowance widening will be required along the 17th Street East frontage of the property. This road allowance widening will be taken through the Site Plan Approval process in accordance with Sec. 41 of the Planning Act.

Engineering Detail	Staff Comments
	The 20th Avenue East and 16th Street East roads have the required road allowance widths and road allowance widening is not required.

The City's Engineering & Public Works Department has no objection to this application (ZBA 33) provided development occurs under the authority of Ste Plan Approval.

### **City of Owen Sound Fire Prevention Division**

Comment has been received from the City's Fire Prevention Division with no objection to the subject proposal.

### **Historic Saugeen Metis**

Comment has been received from Historic Saugeen Metis with no objection to the subject proposal.

### **Grey County**

Comment has been received from Grey County with no objection to the subject proposal

### **Grey Sauble Conservation Authority (GSCA)**

Comment has been received from GSCA with no objection to the proposed zoning by-law amendment. The GSCA notes that the proposed development does not impact any areas regulated under Ontario Regulation 151/06, natural hazards and/or significant natural heritage features.

### **Union Gas (Enbridge)**

Comment has been received from Union Gas with no objection to the subject proposal.

### **Public Comments**

Several comments in support of the application have been received from the public regarding the subject Zoning By-law Amendment. The comments, as well as the March 29, 2021 Public Meeting Minutes are attached to this report (Schedule 'F').

## Next Steps:

In accordance with the Planning Act and City protocols for processing Planning Act Applications, the following outlines the next steps in the process:

Anticipated Date	Step
August 30, 2021	Passing of amending by-law and Notice of Decision

## Financial Implications:

None.

## Communication Strategy:

Notice of Complete Application was given on February 5, 2021 in accordance with the Planning Act. Notice of the Statutory Public Meeting was given on March 5, 2021 in accordance with the Planning Act. The Public Meeting was held on March 29, 2021. |

Notice of Decision will be given after the Zoning By-law Amendment is passed, which is anticipated to occur on August 30<sup>th</sup>.

## Consultation:

In addition to the public notice, the Planning Division has also consulted extensively with the City's Development Team and external commenting partners on the various iterations of the application.

## Attachments:

- Schedule 'A': Orthophoto
- Schedule 'B': Official Plan and Zoning Map
- Schedule 'C': Conceptual Site Plan
- Schedule 'D': Peer Review Process
- Schedule 'E': Draft Zoning By-law and Schedule
- Schedule 'F': Public Meeting Minutes & Public Comments
- Schedule 'G': Agency Comments

## Recommended by:

Sabine Robart, M.SC. (PLAN), Planner

## Reviewed by:

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Staff Report CS-21-107: Recommendation Report – ZBA 33 Sydenham Heights  
Centre at 1960 16th Street East by Thompson Centres Inc.

Amy Cann, M. PL. MCIP, RPP, Manager of Planning & Heritage

**Submission approved by:**

Tim Simmonds, City Manager

For more information on this report, please contact Sabine Robart, Planner at [srobart@owensound.ca](mailto:srobart@owensound.ca) or 519 376 4440 ext. 1236.