

July 28, 2022

MEMO

To: Members of London City Council (City)

From: Century Centre Developments Inc. (Applicant)

Subject: PEC Item 3.10
1067, 1069 & 1071 Wellington Road (OZ-9263 / Z-9264)

Council's decision on Tuesday has the potential to withhold this property from development for the next +/-2 years and ultimately could result in abandonment of the entire project.

While the provision of affordable housing through Bonusing is an important element of the conversation, aspects of the proposed by-law that could impede development and construction are of equal importance. **If zoning aspects are not addressed, referral to facilitate bonusing conversations are pointless.**

We are requesting that Council approve the applicant provided revised zoning by-law.

As the applicant, we have a number of concerns with the proposed by-law present at PEC on July 25th. We were not provided a draft copy for review or comment; and therefore, did not see the proposed by-law until the PEC Agenda was publicly posted on Wednesday, July 20th.

We're requesting revisions that could be broadly categorized as:

1. Issues with interpretation of Policy;
2. Administrative corrections; and
3. Ambiguous language that does not meet the legal test of 'clear and precise'.

Each concern significantly impacts the feasibility of construction or has the potential to create confusion in review of compliance during Site Plan approval and Building Permit issuance.

Both Auburn and Drewlo are committed to bringing this project to fruition. Both are experienced in development, construction, operations and maintenance of rental projects – and intend to achieve occupancy as soon as possible.

We ask Council to consider a resolution which addresses our concerns with the proposed zoning by-law. Without acceptable revisions, discussions around Bonusing are pointless as the application will end in Appeal or complete withdrawal. Direction from Council in regards to the by-law concerns would allow us to continue Bonusing discussions with staff in advance of the August 22nd PEC meeting.

We would also implore Council to make a decision with regards to Bonusing. The application for this project was originally made in July 2020. Based on legislated provincial timelines (of 120 days), a decision should have been rendered by December 2020. It is now July 2022 and we still do not have a decision. We would like to avoid any further delay.

There is no policy calculation to establish a bonusing contribution. All that exists is the guidance of 1989 OP Policy **19.4.4 i)** which states that *“the facilities, services or matters that would be provided in consideration of a height or density bonus should be reasonable, in terms of their cost/benefit implications, for both the City and the developer and must result in a benefit to the general public”*.

The test of “reasonable” was further established through the recent OLT appeal for Medallion v. Unity. As part of this hearing, City staff indicated *“the Official Plan does not contain a policy that provides any direction to how many units would be required to be provided in exchange for a bonus, and instead identifies the qualifiers as ‘commensurate’, ‘fair’ and ‘reasonable’.”*

The quote mentioned above is the last sentence of Item [51] (on page 12 of the decision).

A bonusing contribution of 37 affordable units at 80% AMR for 30 years would be considered fair. 65 affordable units, a significant gesture of good-will on the part of the applicant. 93 units for 50 years is an unreasonable ask.

Based on Table 8 of the London Plan, the “bonusing threshold” for a Transit Village is 15 storeys; meaning 900 units would be supported without the need for a Bonus Zone. Why then is it appropriate for Staff to set the base density (for the purposes of the uplift calculation) at 344 units?? We implore you to ask this question.

**900 units based on an average of 12 units per floor; the permitted density under the *London Plan* without bonusing (at 15 storeys per Table 8) is 12 units per floor x 15 floors x 5 buildings = 900 units.

	Floors	Est. Units	Units per floor		
Building A	27	323	11.96296296		
Building B	27	313	11.59259259		
Building C	10	132	13.2		
Building D	20	220	11		
Building E	27	283	10.48148148		
			12	Average units per floor	

The debate is not about 10%. We fundamentally disagree with how the base density is being established. Because of this we are not anticipating any type of resolution with staff.

$$1272 - 344 = 928 \times 10\% = 93 \text{ units}$$

$$1272 - 900 = 372 \times 10\% = 37 \text{ units}$$

65 units is 17.4% of the LP uplift (372 units) and 7% of the 1989 OP uplift (928 units). It represents 5% of the total units provided (1272 units).

Using the 1989 OP density to calculate uplift does not make any sense!

The OLT decision for Medallion v. Unity also establishes 30 years as a reasonable timeframe. City commentary indicates that the Medallion proposal (affordable units provided at 80% AMR for 30 years) conforms to the definition of affordable housing based on clause 2.b) of the PPS for rental housing.

Staff are arbitrarily using 50 years as the suggested timeframe without any consideration for the cost implications. Development is dependent on project feasibility. The requests of staff have zero consideration for the economics of the project.

The IZ Financial Feasibility report completed by NBLC was presented to PEC on February 7, 2022. It reviewed the financial feasibility of Inclusionary Zoning in Protected Major Transit Station Areas (PMTSA's). When evaluating the impact of IZ it found that IZ in London was not financially feasible. This specifically evaluated 10% affordability applied to the "uplift" using the standard maximum height as a "base"; which in this circumstance is 15 storeys.

I.e., the "fair" proposal of 37 affordable units puts financial strain on the development which would "likely limit the market appeal and development interest" of PMTSA's.

It should be quite obvious to Staff, that applying the same requirement (10%) to the commercial base density of the 1989 Official Plan would kill this projects potential.

Margins for purpose-built rental are extremely tight. These are not small considerations. **This is the difference between redevelopment or switching gears to focus on commercial reinvestment.**

If 65 units is accepted, a "proportionate mix" would result in:

- 39 1-bedroom units;
- 24 2-bedroom units; and
- 2 3-bedroom units.

In light of the need for family-sized units and in response PEC discussions on July 25th, the group would offer an increased number of 3-bedroom units.

If Council adequately addresses the zoning concerns, the Applicant would be willing to provide:

- 27 1-bedroom units;
- 28 2-bedroom units; and
- 10 3-bedroom units.

Further, we would commit to proportionately allocating all 65 affordable units within the first three towers constructed, to ensure units can be occupied in a timely fashion.

All 1272 units of this development are intrinsically attainable by nature. These are purpose-built rental apartment units. A form and tenure which on their own are affordable when compared to larger single detached dwellings which dominate this area.

Again, it is always our intent to work with staff. And we're so close! Staff are generally in favour of the proposal. They are supportive of the site's redevelopment. They are supportive of the requested height. We've collectively agreed to concept and design changes. Unfortunately, we cannot reach a consensus on these remaining items.

To summarize, we are requesting that Council approve the applicant revised zoning by-law provided; including the proposed bonusing contribution of 65 affordable units at 80% AMR for 30 years, which would include at least ten (10) 3-bedroom units.

Thank you for your consideration. If you have any questions, please do not hesitate to reach out.

Sincerely,

A handwritten signature in black ink that reads "Carrie O'Brien". The signature is written in a cursive, flowing style.

Carrie O'Brien, on behalf of Century Centre Developments Inc.

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Applicant Revised By-law

Bill No. (number to be inserted by Clerk's Office)
2022

By-law No. Z.-1-22 [redacted]

A by-law to amend By-law No. Z.-1 to
rezone an area of land located at 1067,
1069, 1071 Wellington Road.

WHEREAS Century Centre Developments Inc. has applied to rezone an area of land located at 1067, 1069, 1071 Wellington Road, as shown on the map attached to this by-law, as set out below;

AND WHEREAS upon approval of Official Plan Amendment Number (number to be inserted by Clerk's Office) this rezoning will conform to the Official Plan;

THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1) Schedule "A" to By-law No. Z.-1 is amended by changing the zoning applicable to lands located at 1067, 1069, 1071 Wellington Road, as shown on the attached map comprising part of Key Map No. A111, from an Associated Shopping Area (ASA1/ASA3) Zone to a Business District Commercial Special Provision Bonus (BDC(_)*B-(_)) Zone.

2) Section Number 4.3 of the General Provisions is amended by adding the following Special Provision:

4.3.4) B-(_) 1067, 1069, 1071 Wellington Road

The Bonus Zone shall be implemented through one or more agreements to facilitate a high-quality, mixed-use development of three buildings with 5 towers as follows: a building along Wellington Road with two 27 storey towers; a building along Montgomery Road with a 10 storey tower and a 20 storey tower, a building along Bradley Avenue with a 27 storey tower; and a maximum density of 566 units per hectare (1,272 units). The development will generally implement the Site Plan attached as Schedule "1" to the amending by-law except where the regulation is more specific and provide for the following:

1) Design Standards

i) Building Height

Montgomery Road

a. A building height not exceeding 10-storeys in height for Tower C (currently facing Montgomery Road and the adjacent residential zone).

ii) Minimum Design Standards

Podium Features

a. A significant break in the podium along Wellington Road as shown on the site plan at the midpoint of the building between Towers A and B, to break up the long façade and promote a human scale, pedestrian oriented environment.

2) Provision of Affordable Housing

- i) A total **65 affordable units** will be provided in the development, comprised of:
 - 28 one-bedroom units;**
 - 27 two-bedroom units; and**
 - 10 three-bedroom units;**
- ii) The affordable housing units **to be proportionately distributed among the first three (3) towers constructed and/or occupied, whichever occurs first;**
- iii) Rents not exceeding 80% of the Canada Mortgage and Housing Corporation (CMHC) Average Market Rent (AMR) for the London Census Metropolitan Area (CMA) at the time of building occupancy; where AMR is defined at the one-bedroom, two-bedroom and three- bedroom rate for the London CMA at the time of building occupancy;
- iv) The duration of affordability set at **30 years** from the point of initial occupancy of the respective building;
- v) These conditions to be secured through an agreement entered on title with associated compliance requirements and remedies.

The following special regulations apply within the bonus zone:

a) Regulations

- i) Height (Maximum)
27 storeys or 96m (315 ft) whichever is less
- ii) Density (Maximum)
566 Units Per Hectare
- iii) Residential Parking Rate (Minimum)
1 space per unit or as required by the General Provisions of the Zoning By-law, whichever is less
- iv) Commercial and Retail Parking Rate (Minimum)
1 space per 20sqm Parking Rate of gross floor area
- v) Bicycle Parking Rate (Minimum)
0.75 spaces per residential unit

- 3) Section Number 25.4 of the Business District Commercial (BDC) Zone is amended by adding the following Special Provision:

BDC() 1067, 1069, 1071 Wellington Road

- a) Additional Permitted Uses
 - i. Apartment Buildings, including residential units on the first (ground) floor
- b) Regulations:
 - i. The front lot line shall be interpreted to be Wellington Road
 - ii. Rear Yard Depth (Minimum) 0m

The inclusion in this By-law of imperial measure along with metric measure is for the purpose of convenience only and the metric measure governs in case of any discrepancy between the two measures.

This By-law shall come into force and be deemed to come into force in accordance with Section 34 of the *Planning Act, R.S.O. 1990, c. P13*, either upon the date of the passage of this by-law or as otherwise provided by the said section.

PASSED in Open Council on August 2, 2022.

Ed Holder
Mayor

Michael Schulthess
City Clerk