PROCEEDING COMMENCED UNDER subsection 17(24) of the Planning Act, R.S.O. 1990, C. P. 13, as amended

Appellant: Archwork Design Management Inc.
Appellant: Homestead Development Corporation
Subject: Proposed Official Plan Amendment No. 131
Municipality: City of Ottawa
OMB Case No.: PL140303
OMB File No.: PL140303

PROCEEDING COMMENCED UNDER subsection 34(19) of the Planning Act, R.S.O. 1990, c. P. 13, as amended

Appellant: Archwork Design Management Inc.
Appellant: Homestead Development Corporation
Subject: By-law No. 2014-63
Municipality: City of Ottawa
OMB Case No.: PL140303
OMB File No.: PL140304

Heard: March 5, 2015 by telephone conference call

APPEARANCES:

**Parties**

Archwork Design Management Inc. and Homestead Development Corporation
City of Ottawa

**Counsel/Agent***

J. Cohen
T. Marc

MEMORANDUM OF ORAL DECISION DELIVERED BY R.G.M. MAKUCH ON MARCH 5, 2015 AND ORDER OF THE BOARD
The Board notes that the TEGA Homes (Attika) Inc. and Richcraft Homes appeals have been withdrawn and was advised prior to the hearing that the remaining parties Archwork Design Management Inc. (“Archwork”) and Homestead Development Corporation (“Homestead”) had resolved their differences with the City of Ottawa (“City”) and had executed minutes of settlement.

The Board is satisfied based on the un-contradicted affidavit evidence of Dana Collings, the land use planner for the City that the proposed modifications to Official Plan Amendment No. 131 (“OPA 131”) represent appropriate land use planning for the reasons that follow.

In early 2013, the City initiated a Community Design Plan (“CDP”) study with the intent of creating detailed policy direction to guide the ongoing redevelopment of the Scott Street area of the City and resulted with Council approval of the CDP and the adoption of OPA 131. This amendment translates the essential elements of the CDP into statutory policy.

There were significant development pressures on a number of properties in the area with the anticipation of additional pressure due to the construction of the Confederation LRT line and station at Tunney’s Pasture and a desire to influence the Federal Master Plan process for Tunney’s Pasture. Council also wanted to create a new policy direction to show how the area can contribute to the City’s Official Plan intensification objectives while ensuring compatibility of development.

The study and implementing OPA 131 were based on the directions in the Provincial Policy Statement (section 1.0); as well as a number of key policy directions pertaining to managing growth in the City’s Official Plan, in particular sections 2.2.2, 2.5.1 and 4.1.

The general approach of OPA 131 is to direct greater intensification to certain areas appropriate for significant intensification with increased densities and taller buildings, while maintaining the low-rise character in the established neighbourhoods.
In particular the plan was to develop policies and guidelines to:

- Implement the Strategic Directions of the Official Plan including mixed use opportunities for growth and accommodating the provision of higher profile buildings.

- Clearly delineate a “Neighbourhood” line separating areas that are intended for significant intensification from established neighbourhoods where only small scale change is expected.

- Direct greater intensification and high-rise buildings to the “Mixed Use Centre” designations, closest to the Transit Station.

- Ensure that development will occur in a manner that is supportive of the future Tunney’s Pasture LRT station.

The Archwork Appeal

[7] OPA 131 affected properties owned by Archwork by changing the parent Official Plan designation from “Mixed Use Centre” to “General Urban” in the area known as Mechanicsville. The new Secondary Plan designated the two lots at the northwest corner of Burnside Avenue and Carruthers Avenue as “Apartment Neighbourhood” limiting building height to six storeys and creating a “Neighbourhood” line at the southern limit of the two lots. It also designated the third lot (52 Carruthers Avenue) as “Low Rise Residential”.

[8] The issues on this appeal include:

- whether the Official Plan should establish maximum heights and, if so, are those appropriate (issue 6)

- whether the neighbourhood line west of Carruthers Avenue and east of
Hinchley Avenue is correctly located (issue 7)

[9] The settlement reached provides that the “Neighbourhood” line would move one lot south to include Archwork’s vacant lot within the “Apartment Neighbourhood” designation. It also adjusts the maximum mid-rise height from six to a possible nine storeys. In order to mitigate impacts to the low rise neighbourhood, a 45 degree angular plane requirement has been introduced to require step backs for the upper 3 floors. Furthermore, the zoning will not be further changed to allow a site specific review of the impacts of a proposed development.

[10] The designation change from “Mixed Use” to “General Urban” in the parent Official Plan must be taken into consideration for this particular area as it implies a less intensive potential. The intent behind OPA 131 (MU to GU) was to put more stability to the core of the neighbourhood, while allowing the inner portions to intensify with lower density and heights. Opportunities for higher levels of intensification and height in OPA 131 were specifically noted for the north (Burnside Avenue) and western (Parkdale Avenue) portions of Mechanicsville.

[11] OPA 131 recognized the Burnside area as an “Apartment Neighbourhood” due to the existing and possible development pattern of mostly apartments ranging in height from 6 to 12 storeys.

[12] The inclusion of 52 Carruthers Avenue (vacant lot) in the “Apartment Neighbourhood” designation and allowing some additional height within the mid-rise limits is an acceptable change to the Official Plan and still within the overall direction and intent of the CDP and OPA 131. The area is already established with built form or zoning that ranges from 6 to 12 storeys and this change would not be inconsistent.

[13] By virtue of the designation change for the lot in question, the “Neighbourhood” line would also need to shift as it exists to distinguish the low-rise areas from the areas planned for more intensive change. Contextually, the adjacent lots to the south will experience redevelopment due to the state of the housing stock and presence of
parking lots. Despite the anticipated changes, the addition of mitigation measures such as the new requirement for an Angular Plane and the need to rezone to a specific proposal will ensure an appropriate built form transition can be achieved to the south.

The Homestead Appeal

[14] The Homestead appeal affects properties in the Hintonburg neighbourhood (“Hintonburg”), which is a predominantly stable, low rise residential area. The neighbourhood’s northern edge fronting Scott Street contains a more mixed development pattern with opportunities for redevelopment and intensification. The low-rise uses on the east side of Parkdale Avenue have been identified as appropriate to intensify and evolve over time to other residential or a mixture of residential and small-scale commercial uses.

[15] The Plan designates the lots fronting on Parkdale Avenue and Scott Street as a “Secondary Main Street” and directs a built form scale that relates to the adjacent low-rise residential neighbourhood. Particular attention was paid to the relationship with the low-rise area for lots fronting on Parkdale Avenue as it provides specific policy direction pertaining to maximum building height, which is to be achieved by the provision of an Angular Plane and a “Neighbourhood” line to ensure compatibility and appropriate transition to the stable portions of Hintonburg.

[16] OPA 131 affected the specific properties in question by creating a new Secondary Plan designation of “Secondary Main Street” and by doing so it specifically identified it as an area that could support some change and intensification and also allow a mix of uses. It established a “Neighbourhood” line to delineate the extent of the area to achieve change, protecting the established core portion of Hintonburg. It also limited maximum building height to up to six storeys on the condition that the upper two floors respected and did not encroach into an Angular Plane or a stepping back from the established residential area.

[17] The issues on appeal include:
• whether the OP should establish maximum heights, and if so, are those appropriate (issue 6)

• whether the “Neighbourhood” line east of Parkdale Avenue and west of Pinehurst Avenue is correctly located (issue 7)

[18] The settlement leaves the “Neighbourhood” line intact but allows some additional height potential on four contiguous properties located at the corner of Parkdale Avenue and Scott Street (255-263 Parkdale Avenue). It also permits an increase in the mid-rise height contemplated from a possible six to a possible nine-storey built form and requires that the provisions of the Angular Plane continue to be met. In addition, the zoning would not be further changed which will allow a site specific review of the impacts of a proposed development.

[19] The site is located in close proximity to the future LRT station and fronts two arterial roads (Scott Street and Parkdale Avenue). The CDP process took great efforts to determine which areas were suitable for additional intensification. While the focus of intensification is to be in the “Mixed Use” designation, the properties fronting on the east side of Parkdale Avenue were viewed as good longer term candidates for more moderate, non-high-rise intensification.

[20] The CDP and Secondary Plan determined appropriate height compatibility to the established Hintonburg neighbourhood by using an Angular Plane to determine maximum building height in the “Mixed Use Centre” as well as for the properties along Parkdale Avenue and Scott Street. The use of the Angular Plane was not challenged and was an important consideration reached by consensus during the CDP process.

[21] The proposed settlement respects the Angular Plane and the “Neighbourhood” line in this area and would permit the addition of extra height but capped at the mid-rise maximum of nine storeys.

[22] The proposed changes would therefore allow the potential for additional density
and height in very close proximity to the LRT Station as it is in an area that the CDP and OPA 131 have targeted for moderate intensification and change. The proposed changes do not compromise the direction and intent of the CDP in terms of compatibility as the proposal would stay within the height caps of the angular plane. This approach falls within the CDP direction that recognizes that neighbourhood edges would experience change in a manner that would not compromise the strong character of the neighbourhood.

[23] Exhibits 3 and 4 to the Dana Collings affidavit sworn February 25, 2015 represent an appropriate resolution of the appeals to OPA 131, represent good planning, are consistent with the intent and direction of the CDP and OPA 131, are consistent with the Provincial Policy Statement 2014 and are in conformity with the City’s Official Plan.

[24] Accordingly, the appeals are allowed and OPA 131 is hereby modified in accordance with Attachments 1 and 2 (Exhibits 3 and 4 respectively, to the Affidavit of Dana Collings sworn February 25, 2015).

[25] It is noted that the Minutes of Settlement provide that Archwork and Homestead have agreed to withdraw their appeals to Zoning By-law No. 2014-64.

“R.G.M. Makuch”

R.G.M. MAKUCH
MEMBER

Ontario Municipal Board
A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elto.gov.on.ca  Telephone: 416-212-6349  Toll Free: 1-866-448-2248
ATTACHMENT 1

This is exhibit 3 to the affidavit of..., sworn before me this ..., day of ..., 2015.

Commissioner for taking Affidavit
Exhibit 3 – Settlement for the Archwork appeals

Amend 4.3.1 of the Secondary Plan by adding the following immediately after 4.3.1 (1):

2. Notwithstanding 4.3.1 (1), the maximum building height permitted on the properties known municipally as 28 Burnside Avenue and 50-52 Carruthers Avenue is nine storeys. No portion of the building(s) above six storeys shall exceed a 45 degree angular plane. The angular plane will be measured from the sixth storey and set 3m north of the abutting Neighbourhood Line.

Amend Schedule A – Land Use to relocate the Neighbourhood Line to the southern lot line of 52 Carruthers Avenue and re-designate 52 Carruthers Avenue from Low-Rise Residential to Apartment Neighbourhood as shown on Schedule A (attached)

Amend Schedule B – Maximum Building Heights to relocate the Neighbourhood Line to the southern lot line of 52 Carruthers Avenue and change the maximum building height from the colour code from “Up to 4 storeys” (blue) to “Up to 6 storeys* Except Where the Secondary Plan Permits Greater Height” (orange) as shown on Schedule B (attached).

Amend the Mid-Rise Legend of Schedule B - Maximum Building Heights from “Up to 6 storeys” to “Up to 6 storeys* Except Where the Secondary Plan Permits Greater Height”

Appeal to zoning withdrawn.
ATTACHMENT 2

This is exhibit "A" to the affidavit of [name]... sworn before me this ... day of ... 20... (signature)

[Commissioner's Name]
Commissioner For Taking Affidavits
Exhibit 4 – Settlement of Homestead Appeals

Amend 4.2.1 (2) of the Secondary Plan by deleting its contents and replacing with the following:

(a) The maximum building height will not exceed a 45-degree angular plane measurement from the Neighbourhood Line as contained in the CDP or six storeys, whichever is lesser.

(b) Notwithstanding 4.2.1.2 (a), the maximum building height permitted on the properties municipally known as 255-263 Parkdale Avenue, will not exceed a 45 degree angular plane measurement from the Neighbourhood Line as contained in the CDP or nine storeys, whichever is lesser.

Appeal to zoning to be withdrawn.