

ISSUE DATE:

February 19, 2013



PL000672

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

Walker Community Development Corporation has appealed to the Ontario Municipal Board under subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the City of Niagara Falls to approve Proposed Amendment No. 27 to the Official Plan for the City of Niagara Falls to redesignate lands at the northeast corner of Mountain Road and St. Paul Avenue from "Extractive Industrial" to "Residential" with a Special Policy Area Symbol to permit the development of a ten (10) storey multi-residential building, including a special provision to permit Neighbourhood Community Space O.M.B. File No.: O000120

Eagle Valley Golf Course Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 79-200 of the City of Niagara Falls to rezone lands respecting 2334 St. Paul Avenue from E1337 (Extractive Industrial) to R-5C (Residential) to permit the development of a ten (10) storey multi-residential building, including a special provision to permit Neighbourhood Community Space
O.M.B. File No.: Z020036

APPEARANCES:

Parties

Counsel

City of Niagara Falls

K. Beaman

Walker Community Development Corporation

B. Crossingham

Ronald Planche

T. Richardson

**MEMORANDUM OF ORAL DECISION DELIVERED BY R.G. MAKUCH ON
FEBRUARY 1, 2013 AND ORDER OF THE BOARD**

[1] The Board issued Decision No. 0729 on March 31, 2005 in this matter allowing the Walker Community Development Corporation appeal in part in order to amend Official Plan Amendment No. 27. It also allowed Eagle Valley Golf Course Inc.'s appeal pursuant to s. 34(11) to amend Zoning By-law Nos. 79-2000 and 93-141. The Board's Order however was withheld pending approval of and registration of a site plan.

[2] The decision also provided that the Appellant, Walker Community Development Corporation and Ronald Planche were to be consulted by the City for their input during the site plan review process.

[3] The parties are now jointly requesting that the Board issue its order without the need for the approval and registration of a site plan subject to the following conditions:

- 1) The City will continue to consult with Ronald Planche and Walker Community Development Corporation during the site plan process;
- 2) There will be no external/freestanding signs for commercial uses; and
- 3) All site accesses on the east side of St. Paul will be consolidated (subject to Regional approval) into two accesses opposite Pinestone and Stonegate.

[4] The Board is satisfied that its Order should be issued based on the submissions of counsel and Mr. Planche. Schedules 1 and 2 to the amending zoning by-law have been amended to rectify certain surveying errors detected as a result of the approval of consents to sever respecting the subject property.

ORDER

Accordingly, the appeals are allowed and:

- 1) the Official Plan is amended in accordance with Attachment 1 hereto; and
- 2) Zoning By-law No.'s 79-2000 and 93-141 are amended in accordance with Attachment 2 hereto.

"R.G. Makuch

R.G. MAKUCH
MEMBER

Attachment 1

PL000672
Attachment # 1

Exhibit # 24

13.26 SPECIAL POLICY AREA "26"

Special Policy Area "26" applies to approximately 1.5 hectares of land located on the northeast corner of St. Paul Avenue and Mountain Road. These lands are designated Residential on Schedule "A" to the Official Plan. **Notwithstanding the policies of Part 2, Section 1.7.3, an apartment building, having a maximum building height of 32 metres or 10 storeys, as measured from the elevation of 192 metres to the top of the 10th storey excluding the elevator or mechanical penthouse,** which may include 929 square metres of neighbourhood commercial space, will be allowed on the lands up to a maximum density of 75 units per hectare. A prerequisite for site plan approval is a detailed noise and vibration study because the lands are within 500 metres of a railway line, and a detailed storm water management report because there are no storm sewers available to the service the site.

Attachment 2

-2-

- (d) Maximum height of building or structure and maximum number of storeys excluding the elevator or mechanical penthouse
 - (i) as measured from the elevation of 181.64 metres 10.36 metres or 3 storeys, whichever is lesser
 - (ii) as measured from the elevation of 192 metres 32 metres or 10 storeys, whichever is lesser
 - (e) Maximum height of elevator or mechanical penthouses as measured from the elevation of 192 metres 40 metres
 - (f) Minimum landscaped open space 45% of the lot area after any required dedication of lands for the purposes of road widening, which shall include a 6.0 metre wide strip, parallel and adjacent to St. Paul Avenue and Mountain Road, save and except for any driveways
 - (g) Maximum lot coverage 18%
 - (h) Maximum floor area per use permitted by clauses (a) through to and including clause (j) of section 8.1.1 of By-law No. 79-200 230 square metres
 - (i) Maximum floor area for all uses permitted by clauses (a) through to and including clause (j) of section 8.1.1 of By-law No. 79-200 929 square metres
3. Section 19 of By-law No. 79-200 is amended by adding thereto the following:
- 19.1.498 Notwithstanding the provisions of section 4.27.1, 4.7, clause (a) of section 7.11.1 and clauses (a), (b), (c), (d), (e), (f), (g), (h) and (m) of section 7.11.2 of By-law No. 79-200, no person shall use the land on the northeast corner of Mountain Road and St. Paul Avenue, designated R5B and numbered 498 on Sheets C1 and C2 of Schedule "A", or erect or use any building or structure thereon for the purpose of an apartment dwelling having a building height greater than 10 metres and having uses permitted by clauses (a) through to and

including clause (j) of section 8.1.1 of By-law No. 79-200 on a portion of the ground floor, except in compliance with By-law No. 2004-_____.

Passed this day of , 2004.

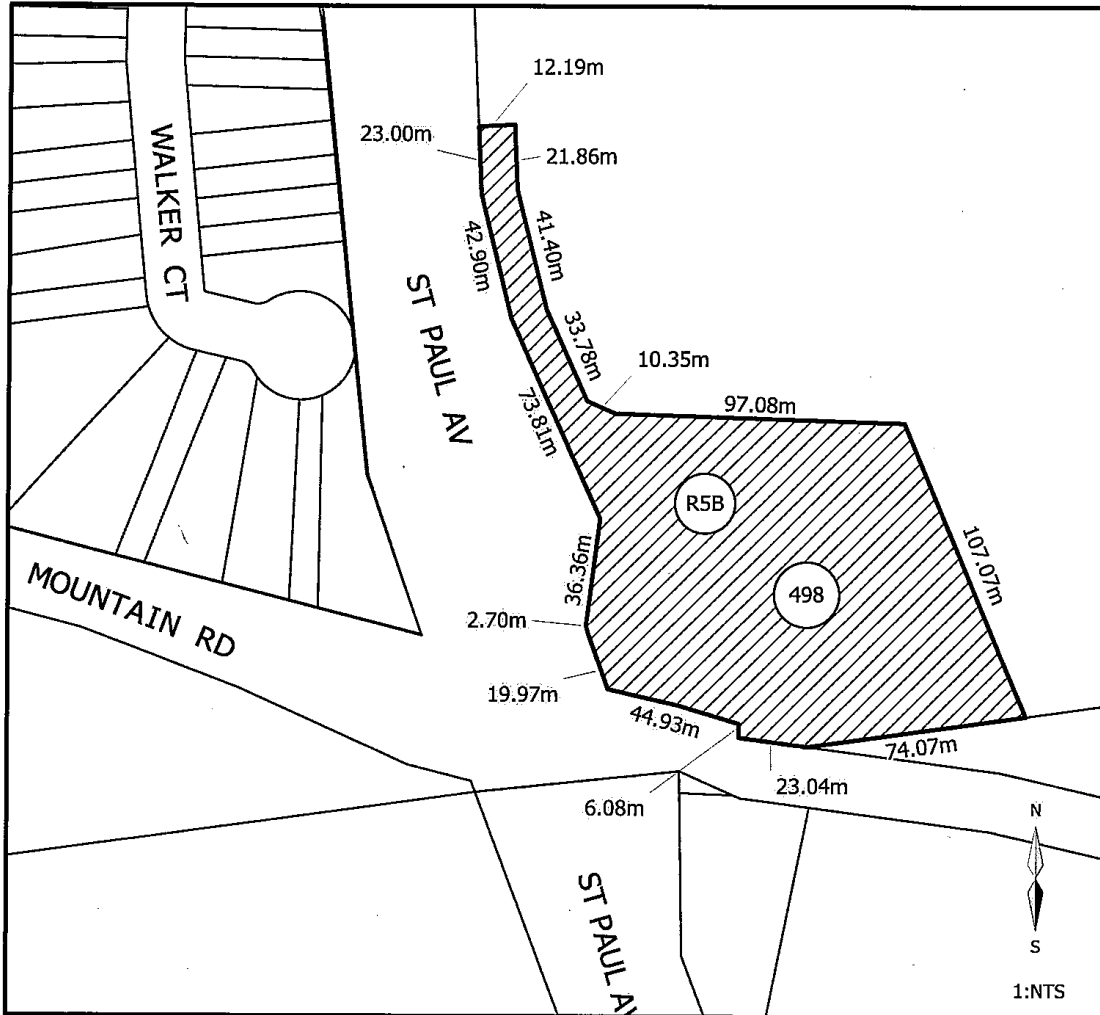
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DEAN IORFIDA, CITY CLERK

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R. T. (TED) SALCI, MAYOR

First Reading: , 2004
Second Reading: , 2004
Third Reading: , 2004

SCHEDULE 1 TO BY-LAW No. 2004-

Subject Land 



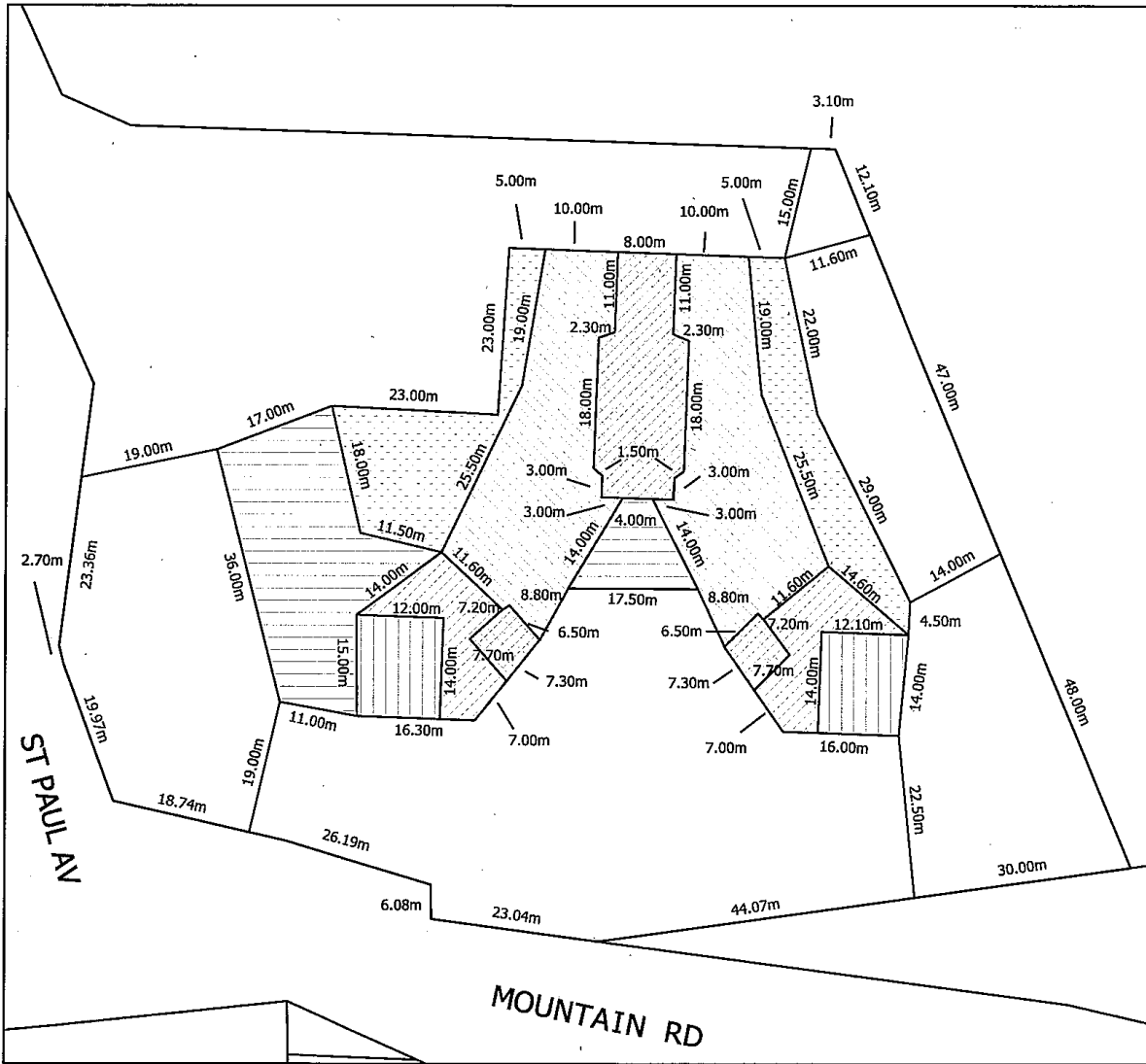
Amending Zoning By-law No. 79-200

Description: Part of Township Lots 16, 24 & 25 & Part of the Road Allowances (now closed) between Township Lots 16, 24 & 25 in the former Township of Stamford, now in the City of Niagara Falls, in the Regional Municipality of Niagara

Applicant: Mario Iafrate

AM-24/1997

SCHEDULE 2 TO BY-LAW No. 2004-



Components of the Building

	Location	Maximum # of Storeys	Maximum Height	Description:
	Lower Level	3	10.36m #	Part of Township Lots 16, 24 & 25 & Part of the Road Allowances (now closed) Between Township Lots 16, 24 & 25 in the former Township of Stamford, now in the City of Niagara Falls, in the Regional Municipality of Niagara
	Podium	1	5m *	
	Tower	9	29m *	Assessment #: 272510000204300
	Tower Top	10	32m *	Maximum Height Notes:
	Roof Feature			# : As measured from the elevation of 181.64m
	Mechanical Penthouses		33m *	* : As measured from the elevation of 192.00m
	Elevator or Mechanical Penthouses		40m *	