



## DEVELOPMENT SERVICES

### *Staff Report*

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REPORT NO: DS-2025-02

TO: Committee of the Whole

SUBMITTED BY: Harold O'Krafka, MCIP RPP PLE  
Director of Development Services

PREPARED BY: Andrew Martin, MCIP RPP  
Manager of Planning and Economic Development

REVIEWED BY: Greg Clark, Acting Chief Administrative Officer

DATE: March 3, 2025

SUBJECT: Official Plan Amendment Application 02/24 and Zone Change  
Application 03/24, 59 Bergey Court / 12 Shephard Place, New  
Hamburg

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#### RECOMMENDATION:

THAT Council approve Official Plan Amendment No. 13 to change the designation of a portion of the lands described as Part of Lot 22, Concession South of Bleams Road from Open Space to Urban Residential; and,

THAT Council approve Zone Change Application 03/24 affecting Part Lot 22, Concession South of Bleams Road and Lot 1, Plan 1795 to:

1. rezone the subject lands from Zone 2 and 2f (Residential) to Zone 4a (Residential) and Zone 11 (Open Space);
2. decrease the maximum density from 35 units/hectare to 19.12 units/hectare on the lands zoned Zone 4a;
3. establish a minimum lot area of 1.83 hectares;
4. establish the lot line abutting Bergey Court as the front lot line, and the lot line abutting Shephard Place as the exterior lot line;

5. reduce the front yard setback from 7.6m to 6.0m for a street townhouse with its front façade facing Bergey Court and to 3.0m for one street townhouse unit having its side façade facing Bergey Court;
6. increase the exterior side yard setback from 6.0m to 7.5m for a street townhouse with its front façade facing Shephard Place;
7. establish the minimum and maximum driveway width for each street townhouse unit with its access on Shephard Place as 5.5m;
8. reduce the minimum lot area for future title separation of a street townhouse from 270m<sup>2</sup> to 204m<sup>2</sup>; and
9. reduce the minimum rear yard setback resulting from future title separation of a street townhouse from 7.6m to 6.4m.

### SUMMARY:

The lands to which these applications apply, 59 Bergey Court and 12 Shephard Place, are presently developed with two dwellings and accessory buildings. Together the lands are proposed to be redeveloped with 35 townhouse units in the form of street and cluster townhouses.

A portion of the proposed development area is presently designated Open Space in the Township Official Plan. The official plan amendment application proposes to change the designation of the lands above the regulatory flood elevation from Open Space to Urban Residential.

The zone change application proposes:

1. to rezone the lands above the regulatory flood elevation from Zone 2 and 2f (Residential) to Zone 4a (Residential);
2. to amend zoning regulations with respect front and exterior side yard setbacks, driveway widths, and lot areas and rear yard setbacks resulting from future title separation of each of the units; and
3. to rezone the lands below the regulatory flood elevation from Zone 2f (Residential) to Zone 11 (Open Space).

The proposed zoning amendment represents an appropriate land use for the subject property. The Township Official Plan requires that 30 percent of population growth occur through reurbanization and promotes a mix of housing types and densities within the Urban Areas. This development proposal implements the housing form and density goals of the Township Official Plan. The proposal is in keeping with the housing form and densities anticipated and existing throughout residential neighbourhoods in the Township's urban areas.

Ultimate development of the site would occur through a site plan approval process which will ensure all aspects of site servicing, landscaping, fencing, and access are completed in accordance with Township, Regional, MTO and GRCA standards and approvals.

**BACKGROUND:**

The public meeting to consider this application was held on September 9, 2024. Notice that the application was returning to Council was given on January 27, 2025 to individuals who previously provided comments on the application. The following is a summary of comments received prior to finalizing this report.

Public (complete comments along with minutes of the Public Meeting are included as Attachment B)

Mike Weber, Shephard PI – Concerned with impact on neighbourhood, loss of trees, environment impacts, parking, and garbage removal.

Glen and Ruth Cressman, Shephard PI – Concerned with the traffic study, ground water impacts, adequacy of electrical servicing, loss of trees, and suggesting the number of units be reduced.

Davina and Ron Fiedler, Shephard PI – Concerned that property lines are not properly identified on plans, potential impact to trees on their property, parking, privacy, traffic, noise, the scope of the hydrogeological study, lack of an EIS, and suggesting limiting or eliminating units fronting Shephard PI.

Pat Weber, Shephard PI – Concerned with environmental impact, parking, garbage collection, snow removal, traffic, and compatibility with neighbourhood.

Joanne and Robert Toth, Shephard PI – Concerned with reduced building setbacks from Shepard PI, need for archaeological assessment, tree removal, the need for upgrades to Bergey Crt, lighting, water supply, and potential precedent for future applications on Shephard PI.

Calvin Gilholm, Shephard PI – concerned with scope of hydrogeological study, the need for an environmental assessment, traffic, and requesting all access be off of Bergey Crt.

Todd and Kristin Diebel, Shephard PI – Concerned with potential for further applications on Shephard PI, school accommodation, pedestrian safety, lack of parking, tree removal, impact on existing trail, amenity areas, impact on neighbourhood character, and impact on existing residents.

Terry Keller, Shephard PI – Concerned with lack of direction on how to challenge the application, impact on existing neighbourhood, traffic, property values and environmental impacts.

Helmut and Mary Trimmel, Shephard PI – Concerned with the number of units and compatibility with the neighbourhood, impact of driveways on Shepard PI, condition of Bergey Crt, mail box locations, and requesting that the walkway along the highway remain open during construction.

Carole and Phil Hahn, Shephard PI – Concerned with driveways on to Shepard PI and proposed density of development.

Joanne and Dave Randerson, Shephard PI – Concerned with parking, the condition of Bergey Crt, adequacy of infrastructure to service the development, tree removal, proximity to floodplain, and noise.

Richard Elgood and Adria Cory Veenhof, Shephard PI – Concerned with density of development, impacts from reduced setbacks, environmental impacts, parking, garbage and snow removal and noise. Requesting singles fronting Bergey, no changes to zoning regulations, and a reduction in the number of units.

Karen and Rob Langver, Shephard PI – Concerned with impacts on existing neighbourhood, environmental impacts, lack of parkland, traffic, parking, and garbage storage and pick up. Requesting no units fronting Shepard, a reduce number of units consisting of bungalow units with double garages.

Mike and Natalie Burrell, Shephard PI – Concerned with number of accesses to Shepard PI, setback of homes from Shephard PI, traffic, parking, and the need for a multi-use trail on Bergey Crt.

David and Linda Thomson, Shephard PI – Concerned with density of development, park space and accessibility for residents of the development, impact on current neighbourhood and property values, and requesting conceptual streetscape and dwelling unit renderings.

Andrea and Dan Fronchak, Shephard PI – Concerned with the number of dwelling units, traffic, parking and tree removals.

Ryan and Mandie Scott, Shephard PI – Concerned with inconsistency with standards imposed on Shephard Place when developed, density, parking and tree removal.

Denise and Mark Coffey, Shephard PI – Concerned with inconsistency with existing neighbourhood, impacts on Bergey Crt, tree removal, noise attenuation, traffic and the scope of the hydrogeological study.

John and Pauline Potzold, Shephard PI – Not supportive of the development due to aesthetic impacts and concerns related to traffic and parking.

Donald and Ferne Woolcott, Shephard PI – Concerned with over intensification, inadequacies of traffic study, the scope and/or lack of environmental studies, accessibility, and suggesting single bungalow units would be more appropriate.

Steve Jefferson, K. Smart and Associates (on behalf of Donald and Ferne Woolcott) – Impact on streetscape through introduction of additional accesses and loss of trees, concerned with traffic, noise, and adequate separation from the floodplain, lack of an EIS and the scope

hydrogeological investigation, and providing recommendations for an alternate plan with less units.

Tim Hall, Shephard PI – Concerned with traffic, noise, findings of the geotechnical and hydrogeological reports, impacts of servicing on existing neighbourhood, density, and property values.

Bryan and Mary Pfaff, Shephard PI – Suggesting number of units is excessive, expressing safety concerns with access to Shephard Place, condition of Bergey Court and costs of reconstruction, need for senior's housing.

Randall Little, Shephard PI – Considered that an EIS was not prepared and impacts on floodplain, traffic safety on Shephard Place, adequacy of travel lanes within the development, questioning sufficiency of parking, the validity of the traffic study, future tenants of the dwellings, impact from construction on existing neighbourhood, noise as a result of sound barriers.

Ryan Mounsey, Urban Insights Inc. (on behalf of residents of Shephard Place) – concerned with space for internal snow storage, lack of internal sidewalks, lack of amenity area and neighbourhood transition.

Waterloo Federation of Agriculture - in support of application identifying appropriateness of gentle intensification, the importance of this form of housing, and suggesting that a higher density should be sought.

### Agencies

Grand River Conservation Authority (GRCA): no objections to approval of the applications and identifying that further review regarding the storm sewer outlet will occur through the site plan approval stage.

Waterloo Catholic District School Board: requesting standard conditions in a future site plan agreement or condominium declaration and recommending further consideration be given to pedestrian connectivity to and within the development.

### Region of Waterloo:

1. Identifying that the subject lands include a Significant Valleyland which generally aligns with the GRCA floodplain and requiring no EIS given the significant valleyland / floodplain is proposed to be zoned open space which would preclude development.
2. Identifying that archaeological assessment of the proposed development lands was previously assessed in the 1990s which cleared the land as not having archaeological significance.
3. At the time of the Public Meeting, indicating that the noise assessment was still under peer review. A final clearance from the noise study peer reviewer was subsequently received indicating no outstanding concerns.

Ministry of Transportation (MTO):

1. Indicating that the site plans have generally met MTO requirements and that remaining items reflect the Township design and reconstruction of Bergey Court
2. MTO has no concerns with the Functional Servicing Report.
3. Identifying that a building and land use permit is required.

### REPORT:

The lands to which these applications apply are designated Urban Residential and Open Space within the Township Official Plan and as Urban Residential and as Significant Valley Lands in the Regional Official Plan. The lands are zoned Zone 2 and 2f (Residential) within the Township Zoning By-law 83-38, as amended.

The lands to which these applications apply, 59 Bergey Court and 12 Shephard Place, are presently developed with two dwellings and accessory buildings. Together the lands are proposed to be redeveloped with 35 townhouse units in the form of street and cluster townhouses.

### Explanation of official plan amendment

The application to amend the Township official plan proposes to change the designation of the lands outside of the regulatory flood elevation from Open Space to Urban Residential. The lands within the regulatory flood elevation are identified as Significant Valley in the Region of Waterloo Official Plan. The proposed Township Official Plan Amendment will align the Urban Residential designation with the Township Urban Area designation of the Region of Waterloo Official Plan while retaining the Open Space designation within the Significant Valley.

### Explanation of zoning by-law amendment

The zone change application proposes to change the zoning classifications of the subject properties and amend regulations to facilitate the proposed redevelopment of the properties with 35 cluster and street townhouses.

59 Bergey Court presently has split zoning – Zone 2 and 2f (Residential). The “f” suffix refers to areas regulated by the GRCA. Typically, through development applications, the boundary of areas identified with the “f” is further defined through technical review to determine the limits of floodplain, wetlands, slope erosion hazards etc. In this instance, the regulatory flood elevation reflects the furthest area of development that can be supported by the GRCA. This elevation has been surveyed on the property. Lands below this elevation (within the floodplain) are proposed to be rezoned to Zone 11 (Open Space). Lands above this elevation (outside of the floodplain) or proposed to be rezoned to Zone 4a (Residential).

12 Shephard Place is presently zoned Zone 2 (Residential) and is proposed to be rezoned to Zone 4a (Residential).

The application also proposes regulation changes as follows:

1. Zone 4a permits a density of 35 units/hectare. This development is proposed to include 35 units on 1.83 hectares representing a density of 19.12 units/hectare. The application therefore proposed to reflect the current proposal by reducing the maximum density accordingly.
2. In order to ensure that the zoning applies to the entirety of the combined parcels of 59 Bergey Court and 12 Shephard Place, the zoning proposes to establish a minimum lot area of 1.83 hectares which is the combined area of the properties.
3. Currently, the frontage on Bergey Court is greater than the frontage on Shephard Place. By definition, the longer frontage on a corner lot is the property's front lot line. After road allowance widenings are obtained by the MTO and the Township related to MTO's future road allowance and the relocation of the existing walkway along Highway 7/8 outside of MTO's widening, the frontage on Bergey Court will be less than that of Shephard Place. To clarify this, the application establishes Bergey Court as the front lot line and Shephard Place as the exterior lot line.
4. The current front yard setback requirement within Zone 4a is 7.6m. The townhouse units fronting Bergey Court are proposed to be 6.0m from the front lot line. One unit fronting the internal private road is proposed to have its side wall 3.0m from the front lot line. The zoning application proposes to reduce those setbacks accordingly.
5. The current exterior side yard setback requirement within Zone 4a is 6.0m. The townhouse units fronting Shephard Place are proposed to be 7.5m from the exterior side lot line. The zoning application proposes to increase the exterior side yard setback for the Shephard Place fronting units accordingly.
6. The zoning by-law contains provisions allowing for separation of ownership of semi-detached dwellings fronting a municipal street and street townhouses. One of the prescribed criteria in the title separation regulation is a minimum resulting lot area of 270m<sup>2</sup>. Based on the current concept, the interior units of the proposed street townhomes would have a lot area of 204m<sup>2</sup> and as such the application proposes to reduce the required area accordingly.
7. Should title separation of the Shephard Place fronting street townhouses be pursued, the rear yard setback for those units would be 7.5m. The application proposes to reduce the rear yard setback requirement for these units to 6.4m.

The site plan included as Attachment A includes notations in order to visualize the proposed by-law amendments described above. Multiple regulation changes are common with redevelopment and infilling projects and are reflective of the unique property configurations and specific site constraints that cannot readily be reflected in standard zoning regulations.

In summary, the regulation amendments described above propose to clarify the front lot line and exterior lot line, decrease the maximum density requirements for the property, increase the setback of units from Shephard Place, decrease setbacks from Bergey Court and establish regulations for future opportunities for title separation of street townhouses.

## Public comments

Comments were received from a number of residents of Shephard Place in advance of the public meeting. At the time of finalization of this report and following notice that the applications were returning to Council, one additional letter was received from a consulting firm on behalf of residents on Shephard. The letter did not introduce any new topics of concern and simply raised matters that are already, and more appropriately, reviewed through site plan approval.

Following the public meeting and as a result of comments received during the meeting, the applicant arranged three meetings with neighbours to discuss the design of the site and concerns with the proposal. The applicant reviewed opportunities for detached dwellings and bungalow units, but after reviewing with their designer determined that bungalow units were not feasible given the property size and configuration while maintaining useable floor area. The applicant has adjusted the plan to move the Shephard Place units further from the lot line and increase the width of the driveways to increase available parking. The applicant has provided a response document addressing public comments received and the document is included as Attachment C.

In addition to the applicant's response document, the following paragraphs speak to concerns and comments raised before and at the public meeting and are organized under six themes: housing form and density, traffic and parking, environmental impact study, noise attenuation, hydrogeological investigation, and functional servicing.

### *Housing form and density*

Concerns were raised regarding the number of units and the form of housing proposed not being consistent or compatible with Shephard Place. While Shephard Place is developed with single detached homes on relatively large lots, other forms of housing such as semi-detached and townhouses are considered to be low density as well.

When considering new greenfield developments, to ensure higher densities are established, the Regional Official Plan requires that 30% of new units be in forms other than singles, semis, and townhomes. This policy is not applicable to this development as the lands are located within the built-up area, however it emphasizes that single, semi-detached, and townhouse dwellings are categorized in the same manner.

There are numerous examples within the Baden and New Hamburg Urban areas wherein street and cluster townhouse developments are integrated within new developments and introduced into existing neighbourhoods through infilling and intensification. For comparison, staff reviewed all other street and cluster townhouse developments with the Baden and New Hamburg urban areas with respect to density and whether they were part of new subdivisions (designated greenfield development) or integrated into existing neighbourhoods (infilling/intensification). The table below highlights the findings.

Urban Area	Location	Development Name	Density (units/ha)
New Hamburg	Greenfield	Forest Park Place	12.9
New Hamburg	Greenfield	Dogwood Court	17
New Hamburg	Greenfield	Wren's Arbour	17
New Hamburg	Greenfield	Cushman Court	30.7
New Hamburg	Infilling/Intensification	Riverbend Brownstones	17.1
New Hamburg	Infilling/Intensification	Jacob's Orchard	20
Baden	Greenfield	Castle Kilbride View	26
Baden	Infilling/Intensification	Vesper Village	8.6
Baden	Infilling/Intensification	Academy Gardens	10.5
Baden	Infilling/Intensification	Coachman's Lane	21.2
Baden	Infilling/Intensification	Timberlane	21.3
Baden	Infilling/Intensification	Brewery Street	28.7
<b>Average Density</b>			<b>19.3</b>

Zone 4a, the zone that applies to townhouses, establishes a maximum density of 35 units per hectare. The proposed development would introduce 35 units on 1.83 hectares representing 19.1 units per hectare falling well within the zoning regulations and within the range of densities that occur throughout Baden and New Hamburg.

#### *Traffic and parking*

Concerns were expressed regarding the timing of completion and scope of the traffic study. Suggestions were made that the traffic study should have looked at the entirety of Bergey Court and its intersection with Bleams Road and that having been completed in August did not reflect the busiest time of use of the streets.

The traffic impact study addresses these concerns. Even in a scenario where traffic volumes are doubled, the road and intersection of Shephard and Bergey Court function effectively. Traffic volumes are not approaching a level of concern with respect to intersection operations or traffic movement. The road itself is more than adequate to support 2-way traffic in volumes anticipated. With respect to the scope, the Region of Waterloo controls the intersection of Bergey Court and Bleams Road and did not have concerns with the current or future function of the intersection and as a result, did not require a traffic study for that intersection. As a result, the traffic impact study accurately characterizes that Bergey Court will continue to function efficiently in post development scenarios.

Bergey Court is currently being designed for reconstruction and presently projected for 2027 construction subject to budget approval. Among other design aspects, construction will include the introduction of a multi-use trail within the boulevard essentially connecting downtown New Hamburg and Morningside to cycling infrastructure on Bleams Road. The improvements to Bergey Court are not required as result of the proposed development, but would provide an added benefit to current and future residents.

With respect to parking, off-street parking for this development is provided in conformity with the zoning by-law. Garage spaces, driveway spaces, and free-standing parking areas combine to provide sufficient spaces for the development. Given public concerns raised regarding parking on Shephard Place, the applicant has increased the driveway length and width for units fronting on Shephard Place beyond the requirements of the zoning to further encourage use of driveways for parking as opposed to parking on the street.

The internal roads within the development have been designed to conform with requirements of the Ontario Building Code with respect to width and turning radii for emergency vehicles. Driveway dimensions meet the requirements of the Zoning By-law for required off-street parking spaces. With respect to the number of units on one point of access, while there are no specific requirements, the National Fire Protection Association (NFPA) standard recommends a secondary access for emergency purposes after 100 units. As such, this development does not warrant multiple points of access to a municipal road.

### *Environmental impact study*

Concerns were expressed that an environmental impact study was not completed. The requirement to undertake this study would have resulted from development being proposed within an environmentally sensitive area. Through pre-submission consultation requirements to undertake an EIS are set out based on the location of the proposal, environmental features, potential impact on species at risk, etc. As all development is proposed outside of the area of environmental significance (the significant valley), an EIS was not required.

Similarly, from a flood mitigation perspective, all development is proposed outside of the floodplain. The GRCA had no concerns with the development limits proposed. All lands located within the floodplain and significant valley will remain designated as Open Space and will be zoned Zone 11 (Open Space) to further preclude development from occurring in that area.

Given the property is not part of a significant woodland, removal of trees is permitted as of right by the property owner. Through a subsequent site plan approval process opportunities to minimize tree removals, ensure protection of trees to be saved (including trees on abutting properties) and to introduce tree planting on the property will be implemented as is common practice.

### *Noise attenuation*

At the time of the Public Meeting, the noise study completed in support of the development was still under review. That review has subsequently been completed and did not result in any substantial changes to the development. Based on projected future road volumes on Highway 7/8, the noise attenuation barrier on the southwest corner of the property was increased in height from 4m to 4.6m.

Noise mitigation for this development would take place through the introduction of noise attenuation barriers identified on the site plan, forced air heating and air conditioning within the units, and the inclusion of noise warning clauses within future offers of purchase/sale/lease.

It is anticipated that the introduction of noise attenuation barriers and the introduction of additional homes between the existing residences and Highway 7/8, will further mitigate the existing sound levels from Highway 7/8. Materials used in noise attenuation barriers minimize noise reflection, so it is anticipated there will be no residual negative traffic noise impacts to existing residents north or south of the highway as a result of the introduction of noise attenuation barriers.

Through a subsequent site plan approval and building permit stage, an acoustical engineer would be engaged to ensure the noise attenuation assumptions are sufficient for the actual units being constructed. Noise warning clauses and requirements for attenuation would be integrated in both a subsequent site plan agreement and condominium declaration, if applicable.

### *Hydrogeological investigation*

A hydrogeological investigation was undertaken to confirm groundwater conditions and potential impacts on the development of the site. Some confusion was provided in public comments regarding contamination of the groundwater. The report is not suggesting there is contamination in the typical sense of that term as a result of human activities – petrol chemical spills, historical industrial activities etc. The study discusses that it is common for ground water to include exceedances that occur naturally because of glacial erosion and sedimentary bedrock deposits.

When de-watering is required during construction activity, there are requirements to ensure that the water is cleaned prior to discharging to an approved outlet. This activity is common and there are mechanisms in place to ensure that water being pumped is cleaned through use of settling tanks and/or mechanical filtration prior to discharge.

Through a subsequent site plan approval process and detailed design, the applicant will be required to further analyze hydrogeological conditions based on the final development plans to ensure that any dewatering activities are addressed appropriately, seasonal changes in ground water elevation are accounted for, and if basements are proposed, to verify and design the site such that sump pump operation is minimized and does not create unreasonable maintenance standards for future home owners. This level of detail does not relate to the zoning application and is more appropriately confirmed at the site plan approval and building permit stages.

### *Functional servicing*

A functional servicing report was undertaken to ensure that the development can be serviced by municipal water and sanitary sewer services and that storm water management can be addressed.

From a water and sanitary sewer perspective, the report summarizes that existing infrastructure is sized to accommodate the development. Concerns were expressed regarding water pressure impacts. The report includes the requisite water pressure and flow tests. Ultimately it concludes that the residual water pressure, after this development is occupied, will remain within the

desired pressure range of 50psi to 80psi set out in the Design Guidelines and Supplemental Specifications for Municipal Services for the Region of Waterloo and Area Municipalities.

A storm water outlet is proposed to be combined with a storm water outlet for Bergey Court utilizing existing lands owned by the Township of Wilmot. The installation of this outlet has been accepted conceptually by the GRCA and MTO, but requires further approvals from those agencies through a future site plan approval process.

#### Site plan approval

Should Council approve the zoning by-law amendment, the next step in development would be site plan approval. The MTO and GRCA will continue to be engaged through that subsequent process. All aspects of zoning compliance, site servicing, storm water management, hydrogeological, landscaping, sidewalk and snow storage, site lighting, and noise attenuation will be reviewed and implemented through site plan approval to meet requirements of the Township and other regulating authorities.

#### ALIGNMENT WITH THE TOWNSHIP OF WILMOT STRATEGIC PLAN:

Prosperous Businesses & Balanced Growth

#### FINANCIAL CONSIDERATIONS:

The application fees, established by the Township of Wilmot Fees and Charges By-law, were collected at the time of application.

#### ATTACHMENTS:

Attachment A	Site plan
Attachment B	Public comments
Attachment C	Consultant's response to public comments